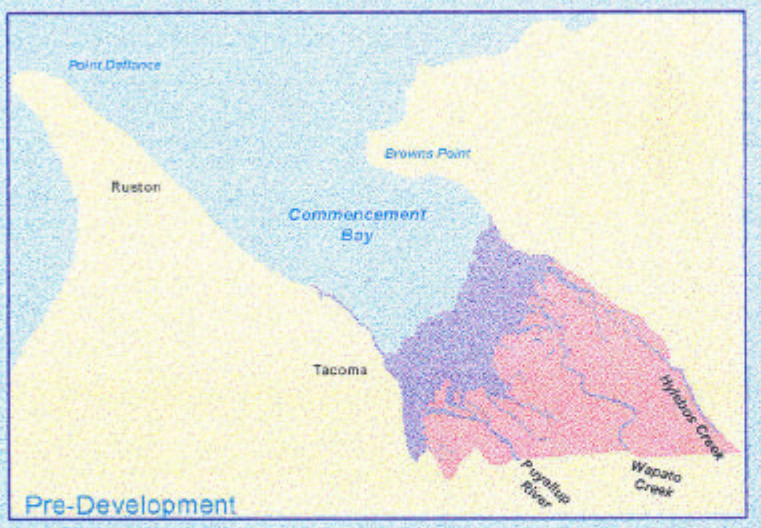


Lead Agencies

National Oceanic and Atmospheric Administration

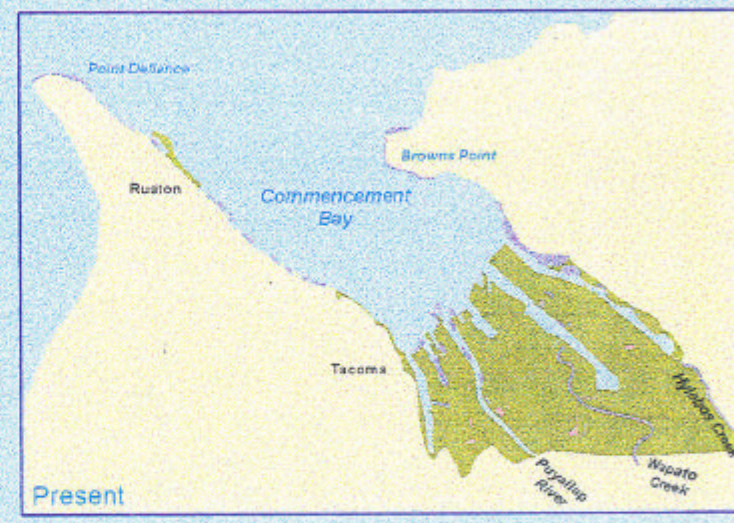
U.S. Fish and Wildlife Service

February 1997

COMMENCEMENT BAY NATURAL RESOURCE DAMAGE ASSESSMENT: RESTORATION PLAN AND FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

Cooperating Agencies

Muckleshoot Indian Tribe
Puyallup Tribe of Indians
Washington Department of Ecology
U.S. Environmental Protection Agency
U.S. Army Corps of Engineers



Intertidal Mudflat
Subtidal Aquatic Bed

Emergent Marsh

Filled Areas

Commencement Bay Natural Resource Damage Assessment (CB/NRDA)
Restoration Plan and Final Programmatic Environmental Impact Statement (RP/FEIS)

Prepared for:

Commencement Bay Natural Resource Trustees
The National Oceanic and Atmospheric Administration of the U.S. Department of Commerce; the U.S. Department of the Interior, including the U.S. Fish and Wildlife Service and the Bureau of Indian Affairs; the Washington Department of Ecology, Washington Department of Fish and Wildlife, and Washington Department of Natural Resources; the Puyallup Tribe of Indians; and the Muckleshoot Indian Tribe

Prepared by:

Lead Agencies

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National Oceanic and Atmospheric Administration
Damage Assessment and Restoration Center Northwest
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Cooperating Agencies

Muckleshoot Indian Tribe
Puyallup Indian Tribe
Washington Department of Ecology
U.S. Environmental Protection Agency
U.S. Army Corps of Engineers

February 1997

The Cover:

The cover depicts the significant habitat losses which have occurred in the Puyallup delta since 1877 (Corps et al., 1993). Understanding the historical structures and functions better enables the Natural Resource Trustees to restore habitats which function in similar ways, thereby increasing their success in today's urban Commencement Bay environment.

Suggested Citation:

Commencement Bay Natural Resource Trustees. 1997. Commencement Bay Natural Resource Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement. Prepared by the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration for the Commencement Bay Natural Resource Trustees and Cooperating Agencies. [Available from U.S. Fish and Wildlife Service; 3704 Griffin Lane S.E., Suite 102; Olympia WA 98501-2192, or NOAA DARC/NW; 7600 Sand Point Way N.E.; Seattle WA 98115-0070]

FACT SHEET

Program Title: Commencement Bay Natural Resource Damage Assessment (CB/NRDA) Restoration Plan and Final Programmatic Environmental Impact Statement (RP/FEIS)

Lead Agencies: U.S. Fish and Wildlife Service
National Oceanic and Atmospheric Administration

Cooperating Agencies: Washington Department of Ecology
Muckleshoot Indian Tribe
Puyallup Tribe of Indians
U.S. Environmental Protection Agency, Region X
U.S. Army Corps of Engineers, Seattle District

Abstract:
The Commencement Bay Natural Resource Trustees are conducting restoration planning to determine the best approach to restoring, replacing, rehabilitating, and/or acquiring the equivalent natural resources and/or services injured as a result of the release of hazardous substances or a discharge of oil to the Commencement Bay environment. To guide the restoration planning process, the Trustees elected to prepare an RP/EIS in order to evaluate management alternatives for restoring those injured natural resources.

The RP/EIS evaluated five alternatives: (l) No Action, (2) Species-Specific Restoration, (3) Habitat Function Restoration, (4) Acquisition of Equivalent Natural Resources and Services, and (5) Integrated Approach. The Trustees have concluded that the preferred alternative is the Integrated Approach, which is a comprehensive plan based on the habitat function alternative, but supplemented with the best features of the other alternatives. This alternative best meets the needs of the Trustees' restoration goals and principles by maximizing ecological benefits for a wider range of natural resources and their associated services.

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Comment Period for RP/FEIS: The comment period for the RP/FEIS ends 30 days after the Notice of Availability is published in the Federal Register. Comments on this RP/FEIS should be sent to Judy Lantor at the above address, or e-mail to Judy_Lantor@mail.fws.gov.

Availability of Copies: Copies of the RP/FEIS are available from the contact persons listed above.

TABLE OF CONTENTS

Section

INTRODUCTION

Background

The purpose of preparing this programmatic Restoration Plan/Environmental Impact Statement (RP/EIS) is to coordinate and implement restoration projects under the Commencement Bay Natural Resource Damage Assessment (CB/NRDA). This document is not intended to quantify the extent of restoration needed to satisfy claims under applicable law against parties deemed responsible for environmental injury. The scale of restoration activity that will be taken under this RP/EIS will depend upon the funds, property and services made available through resolution of natural resource damage claims.

The Commencement Bay Natural Resource Trustees (Trustees) are developing the CB/NRDA to determine the extent of injuries to natural resources, such as fish, shellfish, wildlife, sediments, and water quality, and the services they provide. The CB/NRDA is being conducted pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Oil Pollution Act of 1990, and other applicable laws. The Trustees represent the interests of the public in assessing injuries to the natural resources and the services they provide and restoring and compensating the public for such injuries. The Trustees are the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce; the U.S. Department of the Interior, including the U.S. Fish and Wildlife Service (USFWS) and the Bureau of Indian Affairs; the State of Washington, including the Departments of Ecology (lead state Trustee), Natural Resources (WDNR), and Fish and Wildlife (WDFW); the Puyallup Tribe of Indians; and the Muckleshoot Indian Tribe.

Concurrent with the damage assessment process, the Trustees are conducting restoration planning to determine the best approach to restoring, rehabilitating, replacing, and acquiring the equivalent of the natural resources and their associated services. To guide the restoration process, the Trustees have prepared this RP/EIS, with NOAA and USFWS as the lead federal agencies. The cooperating agencies are the other Trustees, the U.S. Army Corps of Engineers, and EPA.

The EIS analyzes at a programmatic level the environmental impacts of the alternatives that may be employed by the Trustees to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources and the services they would have provided but for the hazardous substance releases or oil discharges to the environment of Commencement Bay. The Trustees have concluded that the preferred alternative is the Integrated Approach, which is a comprehensive plan based on the habitat function alternative, but supplemented with the best features of the other alternatives to form an optimum mix of available restoration options. This alternative best meets the needs of the Trustees' restoration goals and principles by maximizing ecological benefits for a wider range of natural resources and their associated services.

The Restoration Plan will guide decision making regarding the implementation of CB/NRDA restoration activities. The programmatic EIS is intended to expedite and provide a point of departure for future site-specific projects and facilitate the preparation of subsequent project-specific environmental documents through the use of "tiering" (40 CFR 1502.4(d)). The programmatic EIS is being conducted in accordance with the National Environmental Policy Act (NEPA), and may be adopted by the State under its State Environmental Policy Act (SEPA). Project specific NEPA environmental evaluation documents, usually in the form of Environmental Assessments, will be prepared for future restoration projects and will be referenced back to, or "tiered" from, the RP/FEIS (see Appendix 1, CBCAC letter, comment 4). Should unusual conditions warrant, the Trustees could apply any other of the environmental evaluation documents provided by the NEPA process; EIS, supplemental EIS, Determination of Non-significance, Mitigated Determination of Non-significance, or categorical exclusion. Selection of the appropriate process will be decided by the Trustees with input from the public.

Relationship to Other Documents and Necessary Decisions

This Restoration Plan and Final programmatic EIS (RP/FEIS) is being written to amend the draft RP/EIS in response to public comment and to incorporate additional information, corrections, and changes. As such, this RP/FEIS hereby incorporates the draft RP/EIS by reference. All portions of the draft RP/EIS should be considered valid and applicable except those changes made explicitly herein. This RP/FEIS can be incorporated and bound with the draft RP/EIS, dated June 1996, to form one complete restoration plan and programmatic EIS for the CB/NRDA.

Description of the RP/FEIS Format

This RP/FEIS contains much of the normal introductory material which preceded this section (e.g., fact sheet, introduction, and table of contents). Following this section is the body of the RP/FEIS. The outline is identical to that of the draft RP/EIS. For each section which does not differ from the draft RP/EIS to the RP/FEIS, the term *NO CHANGE* is used to designate that section. Where a change is being incorporated from what was presented in the draft RP/EIS, that change is presented and discussed. First, the nature of the change is often discussed (a sentence is revised, a table corrected, a paragraph incorporated), then the reason for the change may be discussed, and last, the change itself is presented in redline/strikeout format. Shaded, redline, words are additions, and the words which are lined through, ~~strikeout~~, are deletions.

There are a number of appendices to this document. Appendix 1 contains the formal comment letters received on the draft RP/EIS and the responses to those public comments. Appendix 2 contains the transcript from the September 10, 1996 public meeting and responses to any comments not contained in the formal comment letters. Appendix 3 contains the draft RP/EIS distribution report and the distribution list for the RP/FEIS.

SECTION 1.0

INTRODUCTION

SECTION 2.0

CHANGES TO THE DRAFT RP/EIS

CHANGES TO THE DRAFT RP/EIS

This section of the RP/FEIS has been prepared to amend the draft RP/EIS in response to public comments and review by the lead and cooperating agencies, and to incorporate additional information, corrections, modifications and changes. None of the corrections, modifications and/or changes are considered significant by the lead agencies. All portions of the draft RP/EIS should be considered valid except for those changes or modifications made explicitly herein.

VOLUME I: DRAFT ENVIRONMENTAL IMPACT STATEMENT

EXECUTIVE SUMMARY

Cultural Resources; page ES-4, ***Correction:***

The ~~Federal~~ Washington State Office of Archaeological and Historical Preservation indicates a number of sites and districts are listed on the National Register of Historic Places or are designated as National Historic Landmarks.

1.0 PURPOSE AND NEED

1.1 Program Background

Page 1-3, second ¶, ***clarification to provide for on-going nature of settlements:***

Concurrent with the CB/NRDA process, the Trustees are conducting restoration planning to determine the best approaches to restoring, rehabilitating, replacing and acquiring the equivalent of the injured natural resources and services they provide. As the CB/NRDA has progressed, the Trustees have entered into partial or full settlements of claims ~~with Simpson Tacoma Kraft Co., Champion International Corp., Washington Department of Natural Resources, and the Port of Tacoma~~ with several parties.

1.2	Study Area	*(NO CHANGE)*
1.2.1	Primary study area	*(NO CHANGE)*
1.2.2	Expanded study area (Puyallup River Basin)	*(NO CHANGE)*
1.3	Project Goals and Objectives	*(NO CHANGE)*
1.4	Programmatic NEPA/SEPA Process	*(NO CHANGE)*
1.5	Summary of the Scoping Process	*(NO CHANGE)*
1.5.1	Public notice and comment period	*(NO CHANGE)*
1.5.2	Scoping meetings	*(NO CHANGE)*
1.5.3	Sources and categories of comments	*(NO CHANGE)*

2.0 AFFECTED ENVIRONMENT

2.1	Introduction	*(NO CHANGE)*
2.1.1	Location of the study areas	*(NO CHANGE)*

2.2 Habitat Types: Functions, Distribution and Conditions *(NO CHANGE)*
2.2.1 Introduction *(NO CHANGE)*
2.2.2 Habitat types and functions *(NO CHANGE)*
2.2.3 Overview of existing habitats within the study areas *(NO CHANGE)*
2.2.3.1 Primary study area *(NO CHANGE)*
2.2.3.2 Expanded study area *(NO CHANGE)*
2.3 Key Resources and Services *(NO CHANGE)*
2.4 Injuries to Natural Resources and Services *(NO CHANGE)*
2.5 Fish and Wildlife Resources *(NO CHANGE)*

2.5.1 Fish

2.5.1.1 Anadromous species

Page 2-14, insert after first complete ¶, *to provide additional information*:

Salmonid stocks found in the basin represent a mixture of native and unknown stocks, some of which rely totally upon natural spawning to sustain the stock, and others that rely upon a mixture of natural (wild) spawning and hatchery production to sustain the stock. A stock is considered of native origin if the stock has not been substantially impacted by genetic interactions with non-native stocks. A mixed stock consists of individuals originating from commingled native and non-native parents, and/or by mating between native and non-native fish. Wild production denotes stocks sustained by natural spawning and rearing in the natural habitat, regardless of parentage or stock origin. A composite stock is sustained by both wild and hatchery or other type of non-natural production. Stocks with escapement, run size, and survival levels within normal ranges and not displaying a pattern of chronically low production or survival are considered healthy. A depressed stock's production is below expected levels based on available habitat and natural variations in survival rates, but above the level were permanent damage to the stock is likely. A critical stock is experiencing production levels so low that permanent damage to the stock is likely (Washington State Department of Fish and Wildlife and Western Treaty Tribes, 1994).

Table 2.5-1. Profiles of Puyallup Basin Salmon and Steelhead stocks as of 1992 (Washington State Department of Fish and Wildlife and Western Treaty Tribes, 1994).

STOCK	STOCK ORIGIN	PRODUCTION TYPE	STOCK STATUS
White River Spring Chinook	Native	Composite	Critical
White River Summer/Fall Chinook	Unknown	Wild	Unknown
Puyallup River Fall Chinook	Unknown	Composite	Unknown
Puyallup/Carbon River Chum	Native	Wild	Unknown
Fennel Creek Chum	Unknown	Wild	Healthy

Hylebos Creek Chum	Unknown	Unknown	Unknown
Puyallup River Coho	Mixed	Composite	Depressed
White River Coho	Mixed	Composite	Healthy
Puyallup River Pink	Native	Wild	Healthy
Puyallup Mainstem Winter Steelhead	Native	Wild	Healthy
White (Puyallup) Winter Steel head	Native	Wild	Healthy
Carbon River Steelhead	Native	Wild	Healthy

Page 2-15, insert after first complete ¶, *to provide additional information*:
The Washington State Salmon and Steelhead Stock Inventory report lists the White River spring chinook, the sole remaining spring chinook stock in south Puget Sound, as critical. A critical designation means the stock is experiencing production levels that are so low that permanent damage to the stock is likely or has already occurred. The spring chinook spawning population now depends largely on some degree of artificial production, such as the Muckleshoot White River Hatchery. ~~In addition, Puyallup River coho are listed as depressed, exhibiting production levels below those expected based on available habitat and natural variations in survival rates, but above the level where permanent damage to the stock is likely~~ (Washington State Department of Fish and Wildlife and Western Treaty Tribes, 1994).

Since the early 1970s, the WDFW, the US Forest Service, the Puyallup Tribe of Indians, and the Muckleshoot Indian Tribe have undertaken a cooperative effort to save and rebuild the White River spring chinook stock. This effort includes monitoring the population, assessing habitat problems and solutions, outplanting of juvenile spring chinook in the White River basin, and habitat restoration. Beginning in the early 1970s and until the early 1990s, most returning spring chinook adults were taken for brood stock and reared in facilities not located in the White River basin. In the late 1980s, the program was expanded to include collecting and spawning adults, and rearing juvenile spring chinook at the Muckleshoot Indian Tribe's White River Hatchery. As the White River Hatchery program increases, releases of juvenile spring chinook into the White River will increase with the intention of repopulating the White River. Some spring chinook are currently transported from a collection facility on the White River near Buckley, and released into the White River above Mud Mountain Dam to spawn naturally. Returns of adult spring chinook to the White River have increased to a level where use of the brood stock facilities not located in the White River are declining.

Besides the native White River spring chinook salmon, native Puyallup/Carbon River chum salmon, as well as Puyallup River pink salmon and steelhead stocks occur in the Basin. Of the three chum stocks found in the Basin two rely upon wild production, the Puyallup/Carbon River chum and Fennel creek Chum; a third chum stock is the Hylebos Creek chum. The Puyallup River pink salmon stock

is a healthy stock sustained totally by wild production. All four of the steelhead stocks in the Basin are native, are considered healthy, and are sustained by wild production. Besides the native White River spring chinook, two other chinook stocks are found in the Basin: the White River summer/fall chinook and the Puyallup River fall chinook. These two stocks are sustained by wild and composite production, respectively. The current coho stocks (White and Puyallup River) arise from a mixture of native and non-native coho, with production a composite of hatchery and wild production. The White River coho stock has been increasing for the past few years and is considered a healthy stock, while the Puyallup River coho stock is considered depressed.

The salmon and steelhead stocks in the Puyallup Basin are managed cooperatively by the WDFW, the Puyallup Tribe of Indians, and the Muckleshoot Indian Tribe to derive recreational, commercial and Indian Treaty harvests that meet Indian Treaty, state, federal, and international obligations. The fishery is managed to ensure the future health, production and harvest of salmon and steelhead.

2.5.1.2 Non-anadromous species *(NO CHANGE)*
2.5.2 Invertebrates *(NO CHANGE)*
2.5.3 Wildlife *(NO CHANGE)*
2.5.3.1 Birds *(NO CHANGE)*

2.5.3.2 Mammals

Page 2-18, *Table numbering altered*:

Table ~~2.5-1~~.2.5-2 Summary of Applicable Avian Habitat Types and Functions in the primary and expanded study areas. See Appendix A for more detail.

2.6 Threatened and Endangered Species *(NO CHANGE)*
2.6.1 Endangered species *(NO CHANGE)*
2.6.2 Threatened species *(NO CHANGE)*
2.6.3 Candidate species *(NO CHANGE)*
2.6.4 Marine mammals *(NO CHANGE)*
2.7 Geology and Soils *(NO CHANGE)*
2.8 Topography and Surface Water Hydrology *(NO CHANGE)*
2.8.1 Primary study area *(NO CHANGE)*
2.8.2 Expanded study area *(NO CHANGE)*
2.9 Water and Sediment Quality *(NO CHANGE)*
2.9.1 Surface water quality *(NO CHANGE)*
2.9.1.1 Primary study area *(NO CHANGE)*
2.9.1.2 Expanded Study Area *(NO CHANGE)*
2.9.2 Sediment quality *(NO CHANGE)*
2.10 Air Quality
2.10.1 Existing conditions *(NO CHANGE)*

2.10.2 Ambient air quality

Page 2-35, first ¶, *correction*:
There are three main sources of PM-10 that occur within the primary study area: industrial stack emissions; industrial fugitive emissions (emissions not ~~dusted~~ exhausted through a stack); and area source emissions (e.g., those that derive from fixed locations such as wood stoves or mobile sources such as cars).

2.11 Noise *(NO CHANGE)*
2.11.1 Existing conditions *(NO CHANGE)*
2.12 Land Use and Aesthetics
2.12.1 General land use patterns and aesthetic qualities *(NO CHANGE)*

2.12.2 Land ownership
Page 2-45, second ¶, *clarification, according to WDNR recommendations*:
Within the primary study area, Washington State owns some of the tidelands and virtually all the subtidal lands outside of the Puyallup Indian Reservation and the Hylebos, Blair, Sitcum and St. Paul waterways ~~substantial areas of intertidal and subtidal land in Commencement Bay~~ (Figure 2.12-4). ~~These lands are managed by the Department of Natural Resources for, in decreasing order of priority, water-dependent commerce, water-oriented commerce, public access and interim use.~~ Within the expanded study area , Washington State owns additional marine tidelands and bedlands , as well as the beds and shores of the navigable waters within the Puyallup River watershed outside of the Puyallup Indian Reservation. These state-owned aquatic lands are managed by the WDNR as mandated by the Public Trust Doctrine, the state constitution, RCW 79.90-96, WAC 332-30 and related state and federal laws. ***Remainder of ¶ becomes separate ¶.***

2.12.3 Land management
Page 2-48, insert after 3rd complete ¶, as new ¶'s, *additional information provided by WDNR*:
The Department of Natural Resources is the designated public steward for state-owned aquatic lands (SOAL). The beds and shores of rivers and lakes, tidelands, marine bedlands and urban harbor areas are the major aquatic land categories. Statutory and regulatory guidance for state-owned aquatic lands management is contained in the Public Trust Doctrine, the state constitution, RCW 79.90-96, WAC 332-30 and in related state and federal laws. The WDNR manages these lands to provide a balance of public benefits for all current and future citizens of the state. Those public benefits, as defined by RCW 79.90.455, are varied and include; in descending order of priority:

1) Encouraging direct public use and access.
2) Fostering water-dependent uses.
3) Ensuring environmental protection.
4) Utilizing renewable resources.
5) Generating revenue in a manner consistent with items (1) through (4).

Over the long term, management actions should achieve the above goals on local, regional and statewide scales. The WDNR works with other jurisdictions to coordinate specific decisions and actions. When agency concerns are not fully addressed in other forums, the WDNR may conduct

supplemental planning or review (e.g. lease conditions; supplemental planning for shoreline master plans, harbor area adjustments) to achieve the management goals.

The WDNR manages SOAL as a proprietary steward (owner) and does not regulate activities on non-owned aquatic lands. Aquatic Resources Program actions to manage these public lands fall into three major program areas. The first is inventory of the land parcels and resources and associated asset management planning efforts to provide program direction. Second, environmental protection actions involve resource protection, remediation and restoration. Environmental review of both proposed use authorizations for SOAL and actions taken that might adversely impact those lands are within this group. Staff participate in various forums regarding protection strategies and plans, remedial design and actions, as well as natural resource restoration settlements and plans. In addition to site specific actions, program staff conduct or participate in various planning efforts (e.g.. shorelines master plans, harbor area reviews, development of Wild Salmonid Policy) to achieve management goals. Finally, the WDNR authorizes uses of SOAL and sells valuable materials, such as shellfish, consistent with the goals stated above. The WDNR dedicates the net revenues generated from state-owned aquatic lands to the Aquatic Lands Enhancement Account (ALEA) for restoring fish and wildlife habitats and developing public access improvements.

The WDNR considers the full range of uses and values of state-owned aquatic lands, the constraints on each land type and the overall benefits provided to all citizens of the state when taking management actions. Within the primary and expanded study areas, the WDNR manages a mix of aquatic land types including tidelands, harbor areas, marine bedlands, and freshwater bedlands and shorelands. Different statutes, regulations and guidelines apply to the different aquatic land types. In working with the other trustees on restoration plan implementation, the WDNR will act to maximize the sustainable benefit stream and ensure a balance of benefits provided by a finite resource base.

2.12.4 Local regulatory requirements *(NO CHANGE)*

2.12.5 Tribal treaties

Page 2-49, first ¶, *correction*:

The Puyallup Tribe of Indians and the Muckleshoot Indian Tribe were parties to the 1855 Treaty of Medicine Creek (1854) with the United States. , and The Muckleshoot Indian Tribe was party to the Treaty of Point Elliott (1855) with the United States. Under these Treaties, the Puyallup and Muckleshoot Tribes ceded Indian lands to the United States while also reserving certain rights, including rights to take fish, including shellfish, at all Usual and Accustomed grounds and stations.

2.13 Utilities and Public Services *(NO CHANGE)*
2.14 Population and Housing *(NO CHANGE)*
2.15 Transportation *(NO CHANGE)*

2.16 Cultural Resources

2.16.1 Ethnohistory

Page 2-52, second ¶, *clarification*:

The Puyallup Tribe was a party to the Treaty of Medicine Creek.~~,~~ The Tribe consists of the people who historically occupied the Puyallup River drainage. In 1857, the Puyallup Reservation was established pursuant to the Treaty of Medicine Creek. The boundaries were revised in 1873 to ~~give~~ provide the Puyallups with direct access to Commencement Bay.

2.16.2 Historical resources *(NO CHANGE)*
2.16.3 Prehistorical resources *(NO CHANGE)*

3.0 ALTERNATIVES
- 3.1 Program Elements Common to all Alternatives *(NO CHANGE)*
  - 3.1.1 Landscape ecology approach *(NO CHANGE)*
  - 3.1.2 Priority given to projects that benefit multiple species and services *(NO CHANGE)*
  - 3.1.3 Sufficient connection to the injured natural resource or service *(NO CHANGE)*
  - 3.1.4 Utilize cost-sharing opportunities *(NO CHANGE)*
  - 3.1.5 Public participation *(NO CHANGE)*
- 3.2 Restoration Concepts Evaluated During Scoping *(NO CHANGE)*
- 3.3 Alternatives Evaluated in the RP/EIS *(NO CHANGE)*
  - 3.3.1 Alternative 1: No Action *(NO CHANGE)*
  - 3.3.2 Alternative 2: Species-Specific Restoration *(NO CHANGE)*
  - 3.3.3 Alternative 3: Habitat Function Restoration *(NO CHANGE)*
  - 3.3.4 Alternative 4: Acquisition of Equivalent Natural Resources and Services *(NO CHANGE)*
  - 3.3.5 Alternative 5: Integrated Approach *(NO CHANGE)*
- 3.4 Alternatives Eliminated from Further Consideration *(NO CHANGE)*
  - 3.4.1 Introduction, goals, and criteria for evaluation *(NO CHANGE)*
  - 3.4.2 Comparison of alternatives *(NO CHANGE)*
- 3.5 Summary of Environmental Consequences *(NO CHANGE)*
- 3.6 Selection of Preferred Alternative *(NO CHANGE)*

4.0 ENVIRONMENTAL CONSEQUENCES
- 4.1 Introduction and Compliance *(NO CHANGE)*
- 4.2 Direct, Indirect and Cumulative Impacts of the Three Alternatives *(NO CHANGE)*

4.3 Impacts Common to All Alternatives

Page 4-9, third complete ¶, *WDNR requested clarification, as taken from October 8, 1996 WDNR letter, comment #8 (see appendix 1):*

Preservation and restoration of natural resources are not addressed as land use classes under these regulations as administered by the Washington Department of Natural Resources (Teissere, 1996).

4.4	Alternative-Specific Impacts	*(NO CHANGE)*
4.4.1	No Action Alternative	*(NO CHANGE)*
4.4.2	Habitat Function Alternative	*(NO CHANGE)*
4.4.3	Integrated Approach	*(NO CHANGE)*
4.5	Rationale for Selecting the Preferred Alternative	*(NO CHANGE)*
4.6	Cumulative Impacts of the Action Alternatives	*(NO CHANGE)*
4.7	Relationship Between Short-Term Use of Man's Environment and Maintenance and Enhancement of Long-Term Productivity	*(NO CHANGE)*
4.8	Probable Irretrievable and Irreversible Commitments of Resources	*(NO CHANGE)*

5.0 COORDINATION WITH OTHER PROGRAMS, PLANS, AND REGULATORY AUTHORITIES

5.1 Overview

Page 5-2, last ¶ in section 5.1, *clarification*:

To construct a restoration project, various permits will be required from local, state, tribal or federal agencies, and a public hearing may be required at the local level.

5.2	Monitoring Compliance with NEPA	*(NO CHANGE)*
5.3	Key Federal and State Statutes And Regulations	*(NO CHANGE)*
5.4	Key Environmental Compliance Laws and Regulations	*(NO CHANGE)*
5.5	Environmental Justice	*(NO CHANGE)*
5.6	Other Potentially Applicable Laws and Regulations	*(NO CHANGE)*

5.7 Other Area Programs and Plans

Page 5-8, *amended according to WDNR recommendations*:

Washington Department of Fish and Wildlife. This agency oversees state fishery policy and management activities and programs, including the State of Washington Wild Salmonid Policy EIS now underway. WDFW is developing the Wild Salmonid Policy in cooperation with the other state agencies and interested tribes.

Washington Department of Natural Resources. ~~This state agency is responsible for management of state-owned aquatic lands for harbor areas, navigation and commerce, preservation and enhancement of water-dependent uses, public access, and management of wildlife habitat, natural area preserves, and state forest lands.~~

Upland Trust Lands Programs. The WDNR manages upland trusts in a manner that will maximize the sustainable stream of revenue to the trusts, consistent with long-term protection

of the natural resources base and it's mix of values. The Natural Resources Board has recently adopted a Habitat Conservation Plan for western Washington that will provide long-term protections for the Northern Spotted Owl and other species of concern, including salmonids.

Forest Practices Program. The WDNR, under the direction of the Forest Practices Board, regulates forest practices on private forest lands. The program evaluates forest practices and assesses environmental impacts.

Special Lands Program. The WDNR acquires and manages special lands, of significance to unique or threatened plants or animals, as Natural Area Preserves or Natural Resources Conservation Areas and cooperates with other authorities to create parks or reserves as warranted.

Jobs for the Environment Program. The WDNR and WDFW jointly administer this program to restore salmonid habitats while providing meaningful work for displaced loggers.

Washington State Interagency Oil Spills Natural Resource Damage Assessment Team. The Washington state interagency oil spills natural resource damage assessment team works with state, federal and local agencies to prepare for, respond to and recover from oil and hazardous materials spills. The team is composed of representatives from the departments of Ecology, Fish and Wildlife, Natural Resources, Health, the Parks and Recreation Commission, and the Office of Archaeology and Historical Preservation. Federal agencies and tribal governments may also participate. The team, meeting publicly as the Resource Damage Assessment (RDA) Committee, conducts preassessment screenings and other resources damage assessment determinations to compensate the public for natural resources injured by oil and hazardous materials spills. Meeting publicly as the Coastal Protection Fund Steering Committee, the team also develops, funds and evaluates projects to restore natural resources injured by oil and hazardous materials spills. This integrated natural resource agency involvement has significantly improved Washington's ability to effectively manage spills, reduce natural resources impacts and restore injured natural resources.

5.8 Common Restoration and Construction Permits *(NO CHANGE)*

5.9 Compliance with Applicable Laws and Regulations

Pages 5-10 to 5-15, *Table amended*:

Table 5.9-1. Compliance with Applicable Laws and Regulations.

Law/Regulation	Scope	Responsible Agency	Compliance	Permit
FEDERAL				
National Environmental Policy Act of 1969 (NEPA), 42 USC 4321-4370d; 40 CFR 1500-1508.	Disclosure of environmental impacts of proposed project; evaluation of alternatives. Applies to federal actions.	Federal lead agency, EPA	Project-specific NEPA documentation also required.	No
Clean Water Act (CWA), 33 USC 1251 et seq.; Section 404 & 301	Regulating discharge of dredge and fill material in waters of the US; protection of wetlands.	Corps, EPA	Project-specific	Yes
Clean Water Act, Sections 401 & 402	Compliance with state water quality standards; discharges to waters of the Puyallup Tribe	Puyallup Tribe, EPA, Ecology	Project-specific	Yes
Rivers and Harbors Act of 1899, 33 USC 403, et seq.; Section 10	Prohibits obstruction or alterations of navigable waters. Regulates construction of any structures within navigable waters of the US.	Corps	Project-specific	Yes
Endangered Species Act (ESA), 16 USC 1531 et seq.	Continued existence of listed threatened and endangered species.	USFWS, NMFS	Partial compliance with RP/EIS. Project-specific consultation with USFWS also required.	No
Coastal Zone Management Act (CZMA), 16 USC 1451 et seq.	Compliance with CZMA for protection of coastal zone; certification by state required.	NOAA, Ecology	Project-specific; review at state level.	Yes

Table 5.9-1. Compliance with Applicable Laws and Regulations.

Law/Regulation	Scope	Responsible Agency	Compliance	Permit
Fish and Wildlife Coordination Act	Protection of fish and wildlife. Applies only to actions with federal involvement ~~actions only~~.	USFWS, NMFS	Project-specific coordination with USFWS and NMFS.	No
Clean Air Act (CAA), 42 USC 7401 et seq.	Prevention of degradation of air quality.	EPA, Ecology, PSAPCA, Puyallup Tribe	Project-specific	Yes
National Historic Preservation Act (NHPA), 12 USC 470 et seq.	Preservation/protection of historic and pre-historic resources.	State, Tribes	Project-specific; review at state level.	No
Federal Indian Law	Reserved hunting and fishing rights to signatory tribes.	Federal, Tribes	Project-specific; review at federal and tribal levels.	No
STATE				
State Environmental Policy Act (SEPA), Ch. 43 RCW	Disclosure of environmental impacts of proposed project; evaluation of alternatives.	Lead state/local agency, Ecology	Partial compliance if RP/EIS is adopted by the state. Project-specific SEPA documentation also required. Local review.	No
Aquatic Lands, Ch. 79.90 RCW	Navigation and commerce; management of wildlife habitat, natural area preserves.	WDNR	Project-specific use authorization required	No
Shoreline Management Act	Protection of shoreline/coastal areas and resources. Meets federal requirements under CZMA.	Ecology, Cities, Counties	Project-specific	Yes

Table 5.9-1. Compliance with Applicable Laws and Regulations.

Law/Regulation	Scope	Responsible Agency	Compliance	Permit
Growth Management Act	Controls urban development. Protection of sensitive resources.	Local and county government, Ecology	Project-specific. Local jurisdiction review.	No
Forest Protective Act	Management of timber adjacent to state waters.	WDNR	Project-specific	Yes
Hydraulic Project Approval, Ch. 75.20 RCW	Protection of aquatic life, beds, and flow of state waters.	WDFW	Project-specific	Yes
Washington Water Pollution Control Act	Governs discharges to state waters.	Ecology	Project-specific	Yes
Growth Management Act	Construction work in wetlands	County, Cities	Local jurisdiction	Yes
TRIBAL				
Permit Application Procedures and Ordinances	Construction on land held in trust for Puyallup Tribe or tribal members within 1873 Survey Area of Puyallup Reservation	Puyallup Environmental Protection Department	Project-specific	Yes
LOCAL				
Zoning Ordinances	Restricts types of development within designated zones.	Local government	Project-specific	No
Clearing and Grading Ordinances	Regulates clearing and grading activities.	Local government	Project-specific	Yes
Noise/Nuisance Ordinances	Restricts noise and nuisance levels.	Local government	Project-specific	No

Table 5.9-2. Sequencing of Permit and Compliance Activities.

	Activity	Applicability	Agency	Duration	Ongoing Activities
1.	Negotiation with property owner.	Following appropriate site selection.	Project Manager	Indefinite	0
(1a.)	Negotiation with state regarding development rights within harbor lands.	Any work extending beyond the extreme low tidemark.	WDNR	Indefinite	1
2.	Pre-meetings with local government.	Following appropriate site selection	Planning/ Zoning and Shoreline offices	Indefinite	1
3.	Local zoning and environmental review.	Upon submission of zoning application and SEPA checklist.	Pierce County Planning/ Zoning, Ecology	1-12 months	1
(3a.)		IF SEPA EIS required	Various state/local agencies	1 year or longer	1, 3
4.	Shoreline substantial development application	If project located adjacent to state waters	Local/Ecology	30 days	1, 3
(4a.)		If conditional use permit or variance is required	Local/Ecology	60 days	1, 3

Table 5.9-2. Sequencing of Permit and Compliance Activities.

	Activity	Applicability	Agency	Duration	Ongoing Activities
5.	Grading and excavation permit application. Local approval	Disturbance of 50 or more cubic yards of soil or clearance of vegetation	City of Tacoma Planning/ Building Department	1-2 months	1, 3, 4
6.	Pre-meetings with state and federal agencies	Following site selection and local pre-meetings	Various state/federal	Indefinite	1-5
7.	Aquatic access application	If project involves State-owned aquatic lands	WDNR	indefinite	3-6
8.	Hydraulic project approval	Effect or impact within ordinary high water mark of state waters	WDFW	1-2 months	3-7
9.	NPDES application	Potential to discharge storm or surface run-off; at least 5 acres of disturbance	Ecology, EPA, Puyallup Tribe as applicable	1-3 months	3-8
10.	CZMA compliance	Project in federally designated coastal areas	Ecology	6 months, 45 days for federal	3-9
11.	Dam safety sectional approval	Impound at least 10 ac/ft; dam 5 feet or more	Ecology	2 months	3-9

5.0 REFERENCES *(NO CHANGE)*

6.0 LIST OF ACRONYMS AND ABBREVIATIONS *(NO CHANGE)*

Table 5.9-2. Sequencing of Permit and Compliance Activities.

	Activity	Applicability	Agency	Duration	Ongoing Activities
12.	Short-term modification of water quality permit application	Potential to affect quality of state waters	Ecology, Puyallup Tribe as applicable	1-2 months	(3a)
13.	Forest Practices Act Permit application	Timber removal near state waters	WDNR	1 month	(3a)
14.	Corps Section 404 Permit	Dredge or fill in U.S. waters	Corps ~~, Ecology~~	NWP: 1 month	(3a)
15.	Endangered Species Act coordination.	Impacts on federally endangered species.	NMFS, USFWS	Individual: 6-12 months	(3a)
16.	Corps Section 10 Permit	Structures or excavation in U.S. waters	Corps, ~~Ecology~~	NWP: 1 month Individual: 6-12 months	(3a)
17	401 Water Quality Certification	With Section 404/10 Permits	~~EPA~~, Ecology, Puyallup Tribe as applicable	3-12 months	(3a)
18.	Tribal review	Potential to impact reserved treaty rights	Tribe	Indefinite	2-16

2.4.1 Puyallup River wetlands/corridors *(NO CHANGE)*
2.4.2 Heads of waterways/river delta *(NO CHANGE)*
2.4.3 Hylebos Waterway *(NO CHANGE)*
2.4.4 Eastern shoreline *(NO CHANGE)*
2.4.5 Western shoreline *(NO CHANGE)*
2.4.6 Hylebos and Wapato Creeks wetlands/corridors *(NO CHANGE)*
2.4.7 Expanded study area *(NO CHANGE)*
2.4.8 Non-NRDA areas *(NO CHANGE)*

3.0 PROJECT SELECTION
3.1 Planning *(NO CHANGE)*
3.2 Screening and Selection Criteria *(NO CHANGE)*
3.2.1 Required criteria *(NO CHANGE)*
3.2.2 Preferred criteria *(NO CHANGE)*
3.2.2.1 High importance *(NO CHANGE)*
3.2.2.2 Medium importance *(NO CHANGE)*
3.2.2.3 Lesser importance *(NO CHANGE)*
3.2.3 Site ranking *(NO CHANGE)*
3.3 Initial Inventory of Potential Restoration Sites *(NO CHANGE)*
3.4 Site Objectives *(NO CHANGE)*
3.5 Developing the Project Vision *(NO CHANGE)*
3.6 Developing Project Goals *(NO CHANGE)*
3.7 Developing the Project Conceptual Model *(NO CHANGE)*
3.8 Site Design *(NO CHANGE)*
3.9 Site Assessment *(NO CHANGE)*
3.10 Cultural Resources *(NO CHANGE)*
3.11 Performance Criteria *(NO CHANGE)*
3.12 Potential Funding Sources *(NO CHANGE)*

3.13 Coordination with Other Agencies and Plans

Page 3-21, new ¶ at end of section 3.13, *additional text, as taken from October 8, 1996 WDNR letter, comment #13 (see appendix 1):*

The state, acting through the WDNR, has facilitated existing and planned restoration projects by providing use of state-owned aquatic lands based on their proprietary trustee interests. The WDNR support for the Slip 1, Milwaukee Waterway, Simpson Middle Waterway Shoreline, and City of Tacoma projects has been based on their public trust interest in seeing both a healthy productive estuary and a healthy economy.

3.13.1 Completed *(NO CHANGE)*
3.13.1.1 Gog-le-hi-te Wetland *(NO CHANGE)*

(Lincoln Avenue Wetland), Port of Tacoma

3.13.1.2 Slip 5 Mitigation Area, Port of Tacoma *(NO CHANGE)*

3.13.1.3 Slip 1 Mitigation Area, Port of Tacoma *(NO CHANGE)*

3.13.1.4 St. Paul Cleanup and Restoration Project, Simpson/Champion *(NO CHANGE)*

3.13.1.5 Milwaukee Mitigation Habitat Area, Port of Tacoma *(NO CHANGE)*

3.13.1.6 Middle Waterway Shore Restoration Project, Simpson/Champion *(NO CHANGE)*

3.13.1.7 Outer Hylebos Waterway, Puyallup Tribe of Indians *(NO CHANGE)*

3.13.1.8 SR-509 Mitigation (Hylebos), Washington Department of Transportation *(NO CHANGE)*

3.13.2 In planning *(NO CHANGE)*

3.13.2.1 Clear Creek Habitat Area, Port of Tacoma *(NO CHANGE)*

3.13.2.2 Middle Waterway Estuarine Natural Resources Restoration Project, City of Tacoma *(NO CHANGE)*

4.0 PROJECT IMPLEMENTATION *(NO CHANGE)*

4.1 Selection of a Project Manager *(NO CHANGE)*

4.2 Regulatory and Permitting Compliance *(NO CHANGE)*

4.3 Property Access/Acquisition *(NO CHANGE)*

4.4 Engineering Design/Cost Analysis *(NO CHANGE)*

4.5 Monitoring and Documentation *(NO CHANGE)*

4.5.1 Monitoring plans *(NO CHANGE)*

4.5.2 Performance evaluation *(NO CHANGE)*

4.5.3 Documentation *(NO CHANGE)*

4.6 Adaptive Management and Contingency Planning *(NO CHANGE)*

4.7 Stewardship Potential

Page 4-6, section 4.7, last sentence, *amended according to WDNR recommendations*:

Stewards may include local public interest groups, non-profit conservancy organizations, parks departments, the settling PRP(s), governmental agencies, or various combinations.

4.8 Outreach *(NO CHANGE)*

SECTION 3.0

APPENDICES

APPENDIX 1

Draft RP/EIS List of Commentors and Response to Comments

Introduction

The public comment period for the draft RP/EIS began on August 8, 1996 and closed on October 8, 1996. Federal, state, and local agencies, tribes, environmental organizations, officials and the public were invited to comment on the draft RP/EIS. A public meeting was held on September 10, 1996. The transcript of the public meeting in provided in appendix 2. A complete listing of the agencies, organizations, and individuals receiving the draft RP/EIS is shown in appendix 3.

During the EIS comment period, written comments and oral testimonies were provided by various governmental agencies, local organizations, businesses and individuals. A total of ten letters were received. The comments can be broken down into two groups that (1) express an opinion or preference, or (2) deal with the content or accuracy of the draft RP/EIS. Comments in the first group may not require any response in the EIS because the decision process tries to recognize and balance diverging views. Comments that deal with the content of the draft RP/EIS are responded to directly following the individual comment letters. Where comments warranted changes, the text of the RP/FEIS was revised accordingly; reference to the revised section(s) is made in the responses to specific comments in this appendix.

Tacoma Public Utilities

Mark Crisson
Director

3628 South 35th Street
P.O. Box 11007
Tacoma, WA 98411-0007

Divisions
Light
Water
Belt Line

September 23, 1996

Ms. Judy Lantor
U. S. Fish & Wildlife Service
3704 Griffin Lane SE, Suite 102
Olympia, Washington 98501-2192

Dear Ms. Lantor:

Draft Restoration Plan and Environmental Impact Statement
Commencement Bay Natural Resource Damage Assessment Restoration Plan

Both Light and Water have reviewed the subject plan.

The Light Division has no comments.

The Water Division notes that any relocation or adjustment of Water Division facilities which may be required as a result of restoration projects or related work will be done by the Water Division at the expense of the appropriate federal agency. 1

Sincerely,

Carol Bellinger

Carol A. Bellinger
Acting Real Estate Management Supervisor

CAB/cjk

Response to Comments

Response to Carol A. Bellinger letter, Tacoma Public Utilities:

1. Regulatory and permitting compliance is covered in sections 4.2 and 5.0 of the EIS. Section 4.2 states, "The project manager will adhere to all ordinances, and other development regulations." Adherence to development regulations includes the expense of relocation or adjustment of Water Division facilities.

HELLER EHRMAN WHITE & McAULIFFE
ATTORNEYS
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

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Anchorage
Los Angeles
Palo Alto
Portland
San Francisco
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October 8, 1996

Ms. Judy Lantor
U.S. Fish & Wildlife Service
3704 Griffin Lane SE, Suite 102
Olympia, WA 98501-2192

Dr. Robert C. Clark
NOAA, NMFS Restoration Center Northwest
7600 Sand Point Way N.E.
Seattle, WA 98115-0070

Re: Commencement Bay Programmatic Environmental Impact Statement

Dear Ms. Lantor and Dr. Clark:

This letter provides the comments of the following four members of the Hylebos Cleanup Committee on the June 1996 Draft Commencement Bay Programmatic Environmental Impact Statement and Conceptual Restoration Plan: ASARCO Incorporated; General Metals of Tacoma, Inc.; Kaiser Aluminum & Chemical Corporation; and Occidental Chemical Corporation. In addition to the comments contained in this letter, these four members of the HCC join in the comments of the Commencement Bay Cleanup Action Committee with the exception of Comment "C" regarding selection of the integrated approach as the preferred alternative. As stated below in more detail, these four members of the HCC believe that the Trustees failed to give sufficient consideration to all alternatives in making the selection of the preferred alternative.

In general, these members of the HCC find the June draft a significant improvement over the previous version. The following comments, however, reflect continuing concerns.

I. The draft EIS/RP provides inadequate consideration of the No Action alternative.

The draft document does not reflect sufficient consideration of all alternatives for restoration and mitigation actions. In particular, the discussion in Section 3.3.1 of the "No Action" 1

plans and provide guidance to the permitting authority on appropriate environmental measures. The Trustees use of these inaccurate assumptions reflects a bias for more aggressive measures rather than fair consideration of the No Action alternative.

The last sentence in the Section 3.3.1 No-Action discussion identifies an "additional consequence" of the No-Action alternative to be the increased opportunity for adverse effects as a result of not restoring, replacing, rehabilitating or acquiring the equivalent of the injured natural resources and services until complete remediation and source control have occurred. This statement does not make sense. Natural recovery begins as soon as source control has been achieved. At this point in time, most source control activities in the Commencement Bay area are complete; therefore, natural recovery is ongoing at the majority of impacted sites. The planning and implementation of NRDA actions is not much, if any, faster than natural recovery in many instances. 1

II. The draft EIS/RP does not focus on restoring the injured resource.

The RP/EIS goes far beyond its stated and appropriate purpose of restoring, replacing, rehabilitating or providing the equivalent natural resources to those for which injuries are claimed. In doing so, it may lead to actions that may be of value to society, but that do not address the allegedly injured resource functions and services. Those actions, then, do not address equivalent natural resources.

The EIS's stated purpose for the proposed action is ". . .to restore, replace, rehabilitate, and/or acquire the equivalent natural resources and services injured as a result of hazardous substances. . . to the environment of Commencement Bay. . ." (RP/EIS p. 1-1). All the claimed injuries occurred within the intertidal, relatively high-salinity portion of Commencement Bay (RP/EIS Figure 2.9-2). The functions and services provided by this intertidal habitat are sufficiently unique that they cannot be provided by freshwater or terrestrial habitats. Therefore, it is logical that restoration, replacement, or rehabilitation of the injured resources and services should occur within the relatively high-salinity portions of Commencement Bay. These locations are all within the existing waterways and shorelines of Commencement Bay. However, many of the alternatives, including the Trustees' Preferred Alternative, address restoration outside of this area. 2

Further, the EIS points out that the Natural Resource Trustees are conducting a Natural Resource Damage Assessment (NRDA) for Commencement Bay. "The assessed damages. . .are intended to be sufficient to restore injured natural resources to the levels of function and service that they would have provided but for the injuries,. . ." (RP/EIS p. 1-1). Restoration of these resources to the level of function and services "they would have provided, but for the injuries" is unlikely to be possible outside of the vicinity and basic environmental characteristics of the injured habitat. The most basic environmental characteristics of the injured habitats are their salinity and tidal characteristics. These basic characteristics are not present in the freshwater and terrestrial habitats of the Puyallup River basin and adjacent areas.

At a variety of locations within the RP/EIS there is evidence of this inappropriate focus on habitat restoration that is unlikely to restore, replace, or rehabilitate the injured functions and services. Because these focus areas do not have the same basic characteristics as the locations at which the claimed injuries occurred, they cannot be considered to be equivalent to the injured habitats nor can they provide equivalent functions and services. The following discussion points out some of the more obvious examples to illustrate this deficiency. 2

In identifying the initial study area (Section 1.2), the EIS immediately expands the area under consideration outside the vicinity of the injuries to include the freshwater and terrestrial portions of the Puyallup River and Hylebos Creek Basins. As shown in Figure 1.2-1 the study area includes the fresh water and terrestrial habitats of the Puyallup River and Hylebos Creek drainage basins. This initial study area is next expanded to cover the entire Puyallup River drainage basin and adjacent areas (Section 1.2.2).

Section 2.0 describes the affected environment and the habitat types, functions, distribution, and conditions of claimed injuries. This section and the Commencement Bay Phase I Damage Assessment Report (CB/NRDA) show only theoretical links to injuries of functions and services that may be provided by freshwater and terrestrial habitats. Although some of the species for which the injuries are claimed also use these habitats, there is no evidence that any injuries occurred to the freshwater and terrestrial habitats, nor that their functions or services were injured by the releases of hazardous substances.

Section 3.0 describes the Alternatives for the proposed action. A landscape ecology approach is given as the appropriate method for planning restoration activities (Section 3.1.1). One concern is that the landscape ecology approach has not been properly applied or has been used in an inappropriate manner to develop alternatives that do not restore, replace, or rehabilitate injured functions and services. The landscape ecology theory places emphasis on all aspects of an ecosystem that are important to the existence of that ecosystem's characteristics. To replace estuarine (intertidal-subtidal, saline) habitat with freshwater or terrestrial habitat types does not follow the landscape ecology approach. Both the location and size of habitats are also important in the landscape ecology approach. Habitats must be of an appropriate size, location and connection to other habitats to fill their appropriate functions in the ecosystem. The importance of these aspects of the landscape ecology approach are not included in the RP/EIS. 3

The proposed alternatives include many options that may indirectly benefit some of the species or groups of species of concern, but do not replace, restore, or rehabilitate the claimed injuries to functions and services. For example, improvements to freshwater habitat may benefit salmonid populations from previous detrimental habitat alterations, but it would not be an equivalent to the allegedly injured estuarine functions and services provided by the injured intertidal habitat necessary for young salmon and juvenile marine fishes.

Failure to maintain the spacial heterogeneity, as well as interactions and exchanges across heterogeneous components of landscapes, will be detrimental to the functions of the landscape, which consists of the Puyallup River Drainage Basin and adjacent areas. The estuarine component of the landscape is one component that has been severely reduced by permitted habitat alterations. To not restore the heterogeneity provided by the remaining portion of this landscape component would be to ignore the basic objective of the landscape ecology approach. 2

Thus, as currently drafted, the Restoration Plan and the RP/EIS will lead to expenditure of NRD funds in a manner that will not provide an equivalent to the injured functions and services. "Trustees must use all sums they recover in compensation for natural resource injuries to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources." (Federal Register Vol. 61, No. 89/Tuesday May 7, 1996, p. 20560). If intertidal and shallow subtidal habitats can be restored there is no need to look elsewhere. There are obviously a variety of restoration opportunities within the nearshore portions of Commencement Bay where the claimed

injuries occurred. In many cases, these areas can be restored with less environmental impact than that caused by restoration in freshwater and terrestrial areas. 2

III. The draft EIS/RP misstates information currently known about the extent of natural resource injury.

The draft EIS/RP fails to provide an accurate assessment of what is currently known about environmental impacts to the Commencement Bay environment and fails to explain how that information is significant to the purpose of the EIS/RP. In Section 2.4 regarding "Injuries to Natural Resources and Services," many premature, conclusory statements are made about findings of impacts to natural resources. Even though Section 2.4 also explains that the Natural Resource Trustees Phase I Damage Assessment Report (1995) is only a preliminary description of injuries, those preliminary findings are frequently stated in a misleadingly conclusory fashion in the draft EIS/RP. In fact, comments submitted on the Damage Assessment Report (1995) have shown it to be a critically flawed study. 4

Furthermore, as stated in the Executive Summary, the purpose of the EIS/RP is to analyze at a programmatic level the environmental impacts of implementation of the alternatives that may be used by the Trustees to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources and the services they would have provided -- **not** to quantify the extent of restoration needed to satisfy claims against parties deemed responsible for the injury. This point is stated in the Executive Summary and should be repeated in Section 2.4 of the EIS/RP and in any other section that includes discussion of investigation and evaluation of natural resource damages.

Thank you for providing the opportunity to comment on the draft EIS/RP. If the Trustees have any questions regarding these comments, please contact the undersigned.

Very truly yours,

HELLER, EHRMAN, WHITE & McAULIFFE

R. Paul Beveridge
Lucy E. Phillips,
for ASARCO Incorporated and
Kaiser Aluminum & Chemical
Corporation

WILLIAMS, KASTNER, & GIBBS

Mark Meyers,
for General Metals of Tacoma, Inc.

OCCIDENTAL CHEMICAL CORPORATION

John R. Wheeler,
for Occidental Chemical Corporation

Response to R. Paul Beveridge, Mark Meyers and John R. Wheeler letter, Heller Ehrman White and McAuliffe:

1. For purposes of this programmatic level evaluation, the Trustees believe that no action or natural recovery as an alternative to restoration will not adequately compensate the public for injuries caused by the release of hazardous substances or the discharge of oil into the Commencement Bay environment. The implications of implementing the no action alternative are addressed in sections 4.4.1, 4.5 and appendix E of the EIS. At the project-specific level, evaluations will be made as to whether a particular habitat should be preserved without active restoration, or whether enhancement efforts may expedite ecological benefits to the system.

2. The Trustees' mandate is to restore natural resources and/or their associated services which have been injured as a result of releases of hazardous substances or a discharge of oil. It is expected that restoration efforts would principally be focused on the primary study area (page ES-1 of the RP). The Trustee's damage assessment process to date has identified salmonids, flatfish, benthic infauna, epibenthic invertebrates, birds, sediments, and surface water as injured resources (section 2.4 of the EIS). All of these resources are expected to benefit from restoration projects in the Primary Study Area. Some, in particular salmonids and birds, would also benefit from restoration activities in the Expanded Study Area. The upper watersheds and major tributaries of the primary study area provide spawning sites, large woody debris input to the ecosystem, travel corridors, forage, nesting, and cover for a wide variety of fish and wildlife species. Should a determination be made that a key species or its services which has been injured in Commencement Bay would most benefit from restoring an essential element of its life cycle further upstream, the Trustees would only then look toward the Expanded Study Area for potential restoration sites. Pages 1-7 and 1-8 of the EIS and pages 1-10 and 1-11 of the RP should be consulted for examples of the conditions that would need to be met before the Trustees considered potential projects for evaluation in the expanded study area.

3. The landscape ecology principles of size, location and connection to other habitats are all utilized as site evaluation criteria. These are identified in Tables 3.3-1, 3.3-2 and 3.3-3 of the EIS. These landscape ecology principles and their application as screening and selection criteria are explained in section 3.2 of the RP.

4. The natural resource damage assessment process which is underway, along with the ongoing EPA/Ecology remedial sampling efforts, is providing information regarding injuries to natural resources and/or services and indicates that NRDA restoration is needed to compensate the public for injuries to natural resources and/or services. The injured natural resources and services identified in the CB/NRDA process are part of the project-specific evaluation criteria.

TACOMA-PIERCE COUNTY CHAMBER OF COMMERCE

October 8, 1996

Judy Lantor
U.S. Fish and Wildlife Service
3704 Griffin Lane S.E., Ste. 102
Olympia, WA 98501-2192

RE: Commencement Bay Programmatic EIS, Vol. I: Draft EIS

Dear Ms. Lantor:

Thank you for the opportunity to comment on the Commencement Bay Programmatic Environmental Impact Statement, Volume I: Draft Environmental Impact Statement.

The Chamber is pleased with the progress that is being made to complete the environmental restoration for Commencement Bay. The Chamber encourages a prompt and considered finalization of the environmental impact statement. 1

The Chamber has conducted a staff review of the document, including interviews with several members of the Chamber's Environmental Task Force. The Chamber encourages the U.S. Environmental Protection Agency and Trustees to continue to work with local groups and individuals to both understand and incorporate their comments into the draft EIS/RP, while avoiding lengthy revisions. 2

The Chamber is supportive of the preferred alternative. 3

Sincerely,

Gary D. Brackett, Mgr.
Business and Trade Development

A-13

950 PACIFIC AVENUE, SUITE 300, PO BOX 1933, TACOMA, WA 98401
PHONE: 206-627-2175, FAX: 206-597-7305, HOME PAGE: http//www.tpchamber.org

Response to Gary D. Brackett letter, Tacoma-Pierce County Chamber of Commerce:

1. The lead and cooperating agencies aim is to promptly respond to comments and issue the final EIS.

2. As noted in section 1.5 of the EIS, the public has been given several opportunities for public comment, beyond what is required under NEPA. The lead and cooperating agencies have worked to incorporate comments and will continue to do so. The Trustees are committed to keeping the public involved and informed and have agreed to hold informal discussion meetings on the RP, and future restoration planning and implementation activities during their quarterly committee meetings, held on the second Tuesday of the months of October, January, April, and July.

3. Comment noted.

Commencement Bay Cleanup Action Committee

Post Office Box 1602
Tacoma, Washington 98401-1602

October 1, 1996

Judy Lantor
U.S. Fish & Wildlife Service
3704 Griffen Land SE, Suite 102
Olympia, Washington 98501-2192

Re: RP/EIS Comments

Dear Ms. Lantor,

Enclosed are comments submitted by the Commencement Bay Cleanup Action Committee (CBCAC) regarding the Commencement Bay Draft Restoration Plan and Programmatic Environmental Impact Statement (RP/EIS). With minor variations, they are similar to the preliminary comments which we offered during the NRDA Trustee's public hearing earlier this month.

If your have questions or comments, please contact me at (360) 754-3603. Thank you.

Sincerely,

James Goche'

James Goche'
CBCAC Coordinator

Comments regarding the NRDA Trustees' Environmental Impact Statement and Restoration Plan for Commencement Bay.

Submitted by the Commencement Bay Cleanup Action Committee

SEPTEMBER 27, 1996

The Commencement Bay Cleanup Action Committee (CBCAC) makes the following comments regarding the NRDA Trustees' Environmental Impact Statement and Restoration Plan (EIS/RP) Draft, dated June, 1996.

A. CBCAC complements the Trustees for working with local groups and individuals to understand their concerns and incorporate their comments into the draft EIS/RP.

B. CBCAC urges the Trustees to finalize the EIS/RP as soon as possible so that restoration projects around Commencement Bay can begin, be expanded, and/or be coordinated with other restoration projects. To this end, CBCAC urges the Trustees to avoid lengthy revisions to the draft and to issue a final EIS/RP by the end of 1996. 1

C. CBCAC strongly supports the integrated approach identified as the preferred alternative in the draft EIS/RP. 2

D. CBCAC proposes the following clarifications of the draft EIS/RP:

1. Create a user-friendly preamble to explain the NRD/RP process to the ordinary citizen who might read the document. 3

2. Include a short explanation of "tiering" and describe how work completed during the Programmatic EIS phase can expedite the level of review necessary for the project specific EIS level. 4

3. Refer more specifically to local regulations, ordinances, and plans which include CBCAC's *Vision for Commencement Bay*, and emphasize that work performed under the EIS/RP will be completed in accordance with these. 5

E. CBCAC supports the EIS/RP's division of the Commencement Bay area into Habitat Focus Areas.

F. CBCAC encourages the Trustees to continue working closely with CBCAC and other local groups as it implements the final EIS/RP. 6

* * *

Response to James Goche' letter, Commencement Bay Cleanup Action Committee (CBCAC):

1. See Tacoma-Pierce County Chamber of Commerce letter, comment 1.

2. Comment noted.

3. Section 1.1 of the EIS, section 1.1 of the RP, and section 1.1 and Appendix A of the Scoping Document explain the relevant part of CERCLA and reference the Act for those requesting additional information. Quarterly public briefings have been established to provide status reports and answer any public inquiries regarding the NRDA process. The Trustees believe that this more interactive forum should be used to further educate or clarify NRDA activities as they arise, and to develop a user-friendly restoration guidance book (as requested by members of the interested public).

4. Section 1-1 of the Scoping Document and section 1.4 of the EIS describe generally the tiering process. In essence, they state that site-specific documents will summarize the relevant issues originally discussed in the RP/EIS so that further documents can concentrate on actions specific to the particular site. Issues that have been discussed in the programmatic EIS which will therefore not require evaluation at the site specific level include social economic, displacement, and energy consumption (section 4.3 of the EIS). Other issues have been covered in a programmatic nature and will only need to address site specific issues rather than a cumulative effects analysis; for example water quality impacts.

5. Section 5 of the EIS describes at a programmatic level many of the potentially applicable federal, state, local, and tribal laws and regulatory authorities, along with area programs and plans, including those of the City, WDNR, CBCAC, and CHB, which would be taken into account at the project-specific level. Section 4.2 of the RP states that actions taken under the RP/EIS are intended to be consistent with local and state planning documents and regulations, and that the project manager will adhere to all applicable and relevant regulations and permits. We conclude that these sections adequately address this comment.

6. See Tacoma-Pierce County Chamber of Commerce letter, comment 2.

Tacoma
City of Tacoma
Public Works Department

October 8, 1996

Judy Lantor
US Fish and Wildlife Service
3704 Griffin Lane SE, Suite 102
Olympia, WA 98501-2192

Dear Ms. Lantor:

Thank you for the opportunity to comment on the Draft Commencement Bay Programmatic Environmental Impact Statement. We have reviewed the Draft EIS and have the following comments:

The preferred alternative is the Integrated Approach as outlined in the EIS. 1

Most projects will be exempt from the shoreline permitting process but the City will likely want to issue a DNS to allow for public input and to support a decision that the project is consistent with the shoreline program. 2

Under City regulations, all proposed developments shall be designed to maximize the public view and public access to and along the shoreline where appropriate. Public access shall be required for all shoreline developments unless compelling arguments are made to support the claim that public access is not compatible with the project goals. 3

Under City regulations, aquaculture enterprises shall be permitted only for personal consumption, educational projects, or improvement of habitat. Hatcheries are to be located in upland locations with net pens allowed as an accessory use on a seasonal basis. However, "the goals and intent of the 1988 Agreement between the Puyallup Tribe of Indians and various governmental agencies shall be considered when evaluating aquacultural facilities." If such facilities are located on tribal land, no local permit would be required but a Corps of Engineers permit would presumably be issued only after Ecology issued a CZMA consistency determination, which could in turn necessitate compliance with local substantive requirements. A reasonable argument could be made that a delayed release net pen that is used in lieu of an existing program of planting hatchery fingerlings into streams (where the fingerlings compete with wild fish for food) is a habitat improvement in that its use reduces competition for available stream habitat resources. 4

The trustees may find themselves converting upland properties requiring cleanup to habitat. Under City regulations, on-site containment is allowed only in the S-10 Port Industrial Shoreline District. 5

747 Market Street, Room 408 ▮ Tacoma, Washington 98402-3769

Where possible, habitat improvement projects shall be protected in perpetuity. Such projects shall be approached on a watershed basis and promote an ecosystem or landscape approach. Trustee actions appear to be consistent with this provision of the code. 6

In the restoration plan, the Bay and Tideflats Area are divided into six focus areas with undefined boundaries. These areas do not encompass all the lands within the primary study area but "restoration activities are not precluded outside these boundaries if site or service criteria yield a high order of benefits."[1] Additionally, since areas both inside and outside the focus areas are included within the primary and extended study areas examined in the EIS, a project proposed outside of the focus areas would be covered by the environmental review provided by the EIS. 7

Sincerely,

Karen J. Larkin
Acting Director of Public Works

KL:jpm

[1] Restoration Plan, pg. 2-6

Response to Karen J. Larkin letter, City of Tacoma Public Works Department:

1. Comment noted.

2. See Tacoma Public Utilities letter, comment 1 and CBCAC letter, comment 5.

3. Section 4.3 of the EIS addresses this comment on page 4-9. The Trustees will seek to balance the goals of public access and habitat restoration during the design phase. As well, ...aesthetic qualities should not be adversely affected under any alternative. This comment refers to maximizing the public view along the shoreline. The addition of restoration sites along the shoreline should improve the public view. Section 3.2.2.3 of the RP provides a criteria to rank potential restoration sites based on the physical ability of the public to access or view the restoration site.

4. The only type of net pens proposed under the Integrated Approach are those that would be utilized on a seasonal basis, section 3.3.5 of the EIS. The entities responsible for salmon fisheries management would be consulted with regard to any net pen proposal. Prior to construction of any net pens, all necessary permits would be obtained, which would include review for consistency with City regulations.

5. Comment noted.

6. As noted in section 3.1.1 of the EIS and sections 1.3.2 and 1.3.3 of the RP, actions proposed by the Trustees are consistent with the provision of this code.

7. Comment noted.

Celebrate 5 years with CHB

771 Broadway
Tacoma, WA 98402
Phone (206) 383-2429
Fax (206) 383-2446

October 8, 1996

Judy Lantor
US Fish and Wildlife Service
3704 Griffin Lane SE Suite 102
Olympia, WA 98501-2192

Re: Draft Commencement Bay Programmatic Environmental Impact Statement

Dear Ms. Lantor,

Citizens for a Healthy Bay (CHB) appreciates the opportunity to comment on the Draft Commencement Bay Programmatic Environmental Impact Statement (DEIS). The DEIS is greatly improved from the advanced draft EIS released to the public in December 1995. It is apparent the Natural Resource Trustees worked diligently on refining the document and addressing CHB's previous comments.

CHB supports the Integrated Approach, the preferred alternative, chosen by the Trustees. At this stage, CHB encourages the Trustees to expediate finalization of the EIS and begin implementation of the Restoration Plan. To begin implementation, CHB recommends reconvening the Restoration Panel to assess whether its work is complete or may need updating. Also, the Panel should assess how it may assist with implementation. 1 2 3

Finally, CHB has finalized its Conservation Priorities drafted last year which is attached with these comments. CHB hopes the Trustees will give strong consideration to CHB's Conservation Priorities as restoration continues in the bay. 4

Sincerely,

Doug Pierce
Board President

A-21

Speaking for a living bay...

Response to Doug Pierce letter, Citizens for a Healthy Bay (CHB):

1. Comment noted.

2. See response to Tacoma-Pierce County Chamber of Commerce letter, comment 1.

3. See response to Tacoma-Pierce County Chamber of Commerce letter, comment 2, and CBCAC letter, comment 3. The Trustees held an informal discussion at their October 8, 1996 quarterly meeting. The Trustees, with the concurrence and encouragement of the public, including Leslie Ryan from CHB, were in agreement that the focus of the Trustees quarterly public briefing meetings could be expanded and, as such, would suffice as an acceptable public forum for continuing discussions on restoration information needs and implementation issues.

4. With the exception of the North Shore Hillside, all of the sites listed as conservation priorities by CHB are included on the preliminary inventory of potential restoration sites, Table 3-1 in the RP. A site must first meet the required criteria to be considered as a potential site suitable for conducting NRDA restoration activities. Required criteria are listed in section 3.2.1 of the RP. Required criteria include that restoration of the site must provide functional benefits to injured natural resources. Nominations for additional restoration sites are always welcomed by the Trustees.

October 8, 1996

WASHINGTON STATE DEPARTMENT OF
Natural Resources

JENNIFER M. BELCHER
Commissioner of Public Lands
KALEEN COTTINGHAM
Supervisor

Ms. Judy Lantor
US Fish and Wildlife Service
3704 Griffin Ln SE, Ste 102
Olympia, WA 98501-2192

Subject: Commencement Bay Restoration Plan Programmatic DEIS

Dear Ms. Lantor:

Thank you for the opportunity to comment on the Commencement Bay Restoration Plan Programmatic DEIS.

We wish to commend the participating agencies for a job well done. The document provides a generally excellent, thorough treatment for an extremely complex task. Below are our comments:

General:

Not enough effort has been made to put the restoration program in perspective as a subset of habitat management. Please clarify the scope of what will be accomplished if the program and restoration projects are implemented. It would be useful for interested parties to gain an expectation of how the restoration program fits into an overall framework of resource status, trends, and potential management options for the Puyallup Basin. For example, the proposed program will restore some of the historic natural resource production and services lost in Commencement Bay. However, additional cooperative basin landscape management planning efforts will likely be required to restore and sustain some species. A brief discussion of landscape management principles may also be warranted. 1

Specific:

Page 2-14, Section 2.5.1.1 We suggest more detail on salmonid stock status and management basis. The history of the White River Spring Chinook Rebuilding Program would significantly strengthen the rationale for more high quality estuarine salmonid habitat. Improvements in habitat are essential to the stated program goal for a healthy naturally self-sustaining population. The recent dramatic improvement in the White River coho run size and continuing healthy wild runs of pinks and chinook also demonstrate a production base that would benefit substantially from improvements in the lower river and estuarine habitats. 2

Pg 2-45, 2.12.2 The management goals for state-owned aquatic lands is misstated. Please refer to RCW 79.90.455 and WAC 332-30-100(1). The sentence on management would better fit under section 2.12.3. 3

Pg 2-45, 2.12.3 This section partially addresses some of our earlier comments on the need to discuss the relationship of the various land management statutes, regulations, and ordinances to the restoration plan. The section still does not address state-owned aquatic lands management authority and guidance. The presence of the Tacoma Harbor Area and waterways places limitations on options within Commencement Bay as significant as any upland zoning, SMP environment designation, or Growth Management Comprehensive Plan. We will be happy to work with you to clarify our mutual understanding of the relationship among the various authorities and the restoration plan. 4

Pg 3-2, 3.1.1 The relatively high management and operation/maintenance costs for sustaining a healthy ecosystem in an urban environment should also be acknowledged. 5

Pg 3-11, 3.3.3 The degree of (potential) isolation from sources of contamination or human disturbances is a more meaningful criteria than distance alone. A physical barrier may be much more effective than separation by distance. Hopefully, the ranking process has the flexibility to consider technological fixes to contamination or human disturbances. 6

The trustees may want to consider alternative or additional public access management strategies beyond selection criteria in the planning document. Public access to aquatic lands has been given a high priority by a number of land use management policy documents. Criteria for balancing public access against the ecological functions may be useful. 7

Pg 4-9, 4.3 The statement "Preservation and restoration of natural resources are not addressed under these regulations as administered by the Washington Department of Natural Resources" should read: "Preservation and restoration of natural resources are not addressed as **land use classes** under these regulations as administered by the Washington Department of Natural Resources." 8

Pg 4-29, 4.6 You apparently have interpreted our previous comments relative to displacement of commerce to a more narrow geographic scope than we intended to convey. We are concerned about displacement to less impacted or more sensitive areas in Puget Sound or other western Washington areas. The possibility of shifting port development to those areas and the potential cumulative impacts should be addressed in the EIS. 9

We would like to discuss your assertion that the restoration program will have no cumulative adverse impact on the Tacoma Harbor Area. While we agree that restoration and commerce are not incompatible within Commencement Bay, we can demonstrate that restoration can and will impact the capabilities of the existing Tacoma Harbor Area. We suggest a programmatic review of the potential impacts as a means to promote community consensus on the balance between Harbor Area capability and renewable natural resource production areas. 9

Pg 5-8. The description of area programs and plans for the Aquatic Resources Program and other DNR programs are incomplete and inaccurate. Please contact us for clarification. 10

Volume II

Please see general comment relative to putting the restoration plan into the context of an overall habitat management approach that will sustain a desired level of resource production.

Pg ES-4 Stewardship is not just related to private parties. All managers of public property can and should review management to ensure environmental protection. Beyond that, public natural resource trustee agencies can significantly contribute to stewardship by ensuing that all proprietary management actions foster sustainable natural resource production. We would like to see more details in the restoration concept document on the potentials for stewardship partnerships between government agencies at all levels and the private sector. 11

Pg 2-1, 2.2 The descriptions of habitat types and functions is generally very good. The state and tribal Wild Salmonid Policy (WSP) workgroup has identified additional functions that may need to be considered. Since the policy is being structured to facilitate locally based watershed protection and restoration programs, a short work session with representatives of the WSP workgroup would likely be very beneficial for both projects. 12

Pg 3-22 The DNR role as a sponsoring proprietary trustee should be acknowledged in the document both in the general case and for individual projects. The state, acting through the DNR, has facilitated existing and planned restoration projects by providing use of state-owned aquatic lands based upon our proprietary trustee interests. The DNR support for the Slip 1, Milwaukee Waterway, Simpson Middle Waterway Shoreline, and City of Tacoma projects has been based upon our public trustee interest in seeing both a healthy productive estuary and a healthy economy. 13

Pg 1-7, 1.3.3 The trustees should address the potential for active participation in watershed recovery planning and implementation as a restoration activity. There likely will be future opportunities to participate in salmonid habitat recovery planning for the Puyallup Basin. 14

Again, we appreciate the opportunity to review this document. If you have any questions, please feel free to contact Bill Graeber at (360) 902-1146.

Sincerely,

Ron Teissere, Assistant Division Manager
Department of Natural Resources
Aquatic Resources Division
PO Box 47027
Olympia, Wa. 98504-7027

c: Bill Graeber

F:\DATA\SUPPORT\ALEA_PLN\LANTOR.LTR

Response to Ron Teissere letter, Washington State Department of Natural Resources (WDNR):

1. As a State NRDA Trustee and cooperating agency, we anticipate that WDNR will provide input on this topic to the ongoing development of a restoration guidance book (see CBCAC letter, comment 3).

2. Comment acknowledged. Section 2.5.1.1 of the EIS revised on pages 2-14 and 2-15.

3. Comment acknowledged. Section 2.12.2 of the EIS revised on page 2-45, according to WDNR recommendations.

4. Comment acknowledged. Section 2.12.2 of the EIS revised on page 2-48, according to WDNR recommendations.

5. Section 3.1.1 of the EIS provides a definition of the landscape ecology approach. The high cost of conducting restoration in an urban environment are discussed in Appendix E under criteria four and are summarized in Table 3.4-1 of the EIS.

6. Table 3.3-2 on page 3-11 utilizes the term separation. The term distance was not used for the reasons addressed in your letter. Separation provides the latitude to look at other methods to provide separation from contaminants or human disturbance rather than being limited to simply distance.

7. The criteria of public access is further defined in section 3.2.2.3 of the RP, on page 3-6. Weight is given to sites that can accommodate public access compatible with restoration goals. Section 1.3 of the RP provides a detailed description of the Trustee's NRDA restoration goals and objectives. These goals and objectives provide a sound methodology to balance public access issues while maintaining the ecological functions necessary for the restoration of injured natural resources.

8. Comment acknowledged. Text changed, section 4.3 of the EIS revised on page 4-9.

9. As section 4.6 of the EIS states, "By carefully considering commercial, industrial, and navigational activities during site specific project planning, it is expected that any adverse impacts can be avoided." Since any adverse cumulative impacts to commerce would be avoided or mitigated, there should not be a displacement of commerce under the NRDA restoration program.

10. Comment acknowledged. Section 5.7 of the EIS amended on page 2-48, according to WDNR recommendations.

11. More information is provided on stewardship in the text of the conceptual restoration plan,

section 4.7, page 4-6. This section has been revised to incorporate governmental agencies.

12. Comment noted.

13. Comment acknowledged. Section 3.13 of the RP revised on page 3-21.

14. Section 5.7 of the EIS discusses coordination with other programs. This comment is incorporated within the intent of section 1.3.3 of the RP.

section 4.7, page 4-6. This section has been revised to incorporate governmental agencies.

12. Comment noted.

13. Comment acknowledged. Section 3.13 of the RP revised on page 3-21.

14. Section 5.7 of the EIS discusses coordination with other programs. This comment is incorporated within the intent of section 1.3.3 of the RP.

Rachel Thomas
Box 4637
Huachuca City, AZ 85616

October 3, 1996

U.S. Fish and Wildlife Service
3704 Griffin Lane SE, Suite 102
Olympia, WA 98501-2192

Reference Federal Register, August 8, 1996, Number 154 pertaining to the Development of the Commencement Bay Natural Resource Damage Assessment Restoration Plan, Pierce County, WA.

The public lands and waters must be managed to the very best of capabilities. This can only be done by utilizing the knowledge and abilities of the people who live on and make their living from the land. All state and local governments along with every land user including ranchers, loggers, miners, fishermen, recreation people, hunters, school boards, fire boards to name a few should be included in any land management action or plan such as the one you are proposing. 1

For the best results, land management decision should be made by people who have to live long term with the consequences of the decisions, not some government employee who is on the job for a year or a few years then moves on.

Our public lands should be managed for productivity and sustainabilaity. No action should be accomplished without considering the impact on local communities, their economics, customs, traditions and cultures. 2

Please provide me a copy of the RP/EIS and place my name on your mailing list for any future documents that pertain to this action.

Sincerely

Rachel Thomas

Rachel Thomas

cc
Senator Jon Kyl
Senator John McCain
Senator Slade Gorton
Senator Patty Murray

Response to Rachel Thomas letter:

1. See Tacoma-Pierce County Chamber of Commerce letter, comment 2.

2. These items are addressed in section 4.3 and appendix E of the draft EIS.

elf atochem
ATO

Elf Atochem North America, Inc.
2901 Taylor Way, Tacoma, Washington 98421
Phone: (206) 627-9101, Fax (206) 627-0554

October 4, 1996

VIA FACSIMILE

Dr. Robert Clark
NOAA, NMFS Restoration Center Northwest
7600 Sand Point Way N.E.
Seattle, WA 98115-0070

Ms. Judy Lantor
U.S. Fish & Wildlife Service
3704 Griffen Lane SE, Suite 102
Olympia, WA 98501-2192

RE: Elf Atochem North America, Inc.
Comments on the Commencement Bay Draft Programmatic Restoration Plan and Environmental Impact Statement (EIS)

Dear Dr. Clark, Ms. Lantor and NRD Trustees:

Thank you for the opportunity to provide preliminary comments on the draft Programmatic Restoration Plan and Environmental Impact Statement (EIS). We are pleased that this draft has addressed numerous preliminary comments of interested parties, and we appreciate the Trustees' efforts to be responsive to our concerns. Elf Atochem North America, Inc. offers the following comments for your consideration in developing the final Programmatic Restoration Plan and EIS.

We are concerned that the emphasis on habitat restoration has shifted away from the intertidal marine and estuarine environment of Commencement Bay toward dissimilar freshwater and/or terrestrial habitats located outside the primary study area, but within the Expanded Study Area. It seems very clear that the ecological function of a marine intertidal habitat cannot be provided in freshwater environment. It is unclear how restoration of the (lost) resource to the level of function and service "but for the (alleged) injury" can be obtained if the characteristics of high salinity and tidal environment are absent in "equivalent" resource areas. 1.

For this reason, we do not agree with the low prioritization or ranking given to restoration sites located within the primary restoration area. For example, the Kaiser slough is ranked as a low priority opportunity for restoration, in spite of its excellent potential as an augmented intertidal habitat project. 1

We are also concerned that the landscape ecology approach (see Section 3.1.1) has been misapplied. The theory of landscape ecology does not allow for the replacement of saline, estuarine intertidal habitat with freshwater habitat (or even upland terrestrial habitats), as shown in Figure 1.2.1 of the draft Programmatic EIS.

The Landscape Ecology approach requires habitats be of an equivalent size, location and proximity to provide equivalence of service. These aspects of landscape ecology theory have not been sufficiently addressed in the Draft Programmatic Restoration Plan and EIS. 2

We are concerned because certain species, including the northern spotted owl, the spotted frog, gray wolf and grizzly bear are included in the discussions of the expanded study area. It is highly uncertain and in some cases extremely improbable that some of these species currently exist in this area. Therefore, there is no basis for considering such species in connection with the chemical constituents of concern in Commencement Bay. Their inclusion is puzzling, and there is no discussion of the nexus between these species and a potential injury in Commencement Bay. Discussion of these species should be deleted from the Draft Programmatic Restoration Plan and EIS. 3

The draft EIS fails to adequately address the importance and significant benefits associated with natural recovery. It acknowledges the apparent importance of natural recovery and the tremendous ability of natural systems to "self heal," but goes on to discount natural recovery as a viable option and provides no analysis as to how this conclusion was reached. We strongly believe natural recovery is for most of Commencement Bay the restoration process that is most likely to occur, and the process most likely to be successful. Natural processes will be the primary mechanism for recruitment and recolonization of natural or manmade/man-modified habitats. For this reason, the importance of a landscape ecology approach that focuses on marine/estuarine habits for restoration is critical and must be a vital element of the approach described in the Draft Programmatic Restoration Plan and EIS. 4

We also believe that a key consideration for selection of a restoration approach should be that a restoration project "reduces fragmentation of the landscape" (see criterion 6 on p. 3-19). If appropriate emphasis and weight is assigned to this criteria, most (if not all) restoration work should occur within the primary restoration area, at least 5

until all proposed projects which are viable options, even those which are assigned a low-ranking at the present time, are fully considered.

In the Draft Restoration Plan/EIS, the Trustees should expressly recognize that combining restoration projects that are ecologically connected, especially within the primary study area, will enhance the restoration value and priority ranking of restoration efforts based on the theory of landscape ecology. Therefore, it may not be appropriate to rank all sites on restoration value at this time. 5

The Trustees and PRPs should individually and collectively pursue restoration options that consolidate the overall restoration effort in the primary Restoration Area of Commencement Bay.

Otherwise, we are very concerned that the Restoration Plan and this Programmatic Environmental Impact Statement will lead to unwarranted and unwise expenditures of NRD funds in a way that does not provide equivalent services (or functions) to the alleged injury/lost service. 1

We believe the focus should be kept within the primary study area, and to the maximum extent possible, with respect to intertidal and subtidal environs within Commencement Bay.

After you have had the opportunity to review these comments, we would be pleased to discuss your responses at a technical meeting or by an exchange of written correspondence. We reserve the right to comment further in the future or challenge any aspect, including, but not limited to, the reasonableness of the scope and/or cost; the relevance to any alleged releases of chemical constituents into Commencement Bay (particularly the Hylebos Waterway); the relevance to restoration goals, the equivalence of allegedly equivalent resources and their acquisition, and the jurisdiction of any or all Trustees over the elements included in this draft Programmatic Restoration Plan and EIS. 6

We appreciate the opportunity to provide these comments and look forward to further discussions with your office, as appropriate.

Please do not hesitate to contact me directly at (206) 596-6846 to discuss these comments further.

Sincerely,

Fred Wolf

cc: Mr. Robert Taylor

Response to Fred Wolf letter, Elf Atochem:

1. See Heller Ehrman White and McAuliffe letter, comment 2. Sites are ranked not only by location but according to a variety of environmental factors.

2. See Heller Ehrman White and McAuliffe letter, comment 3.

3. The purpose of section 2.6 of the EIS is to briefly summarize the status of all threatened and endangered species within the primary and expanded study areas. Prior to implementation of any NRDA restoration projects, an evaluation of impacts to threatened and endangered species is required by Section 7 of the Endangered Species Act. This section of the EIS provides a programmatic overview which can then be referenced in the site specific evaluation (subsequent tiered environmental documents, see Goche' letter, comment 4).

4. See Heller Ehrman White and McAuliffe letter, comment 1.

5. The Trustees recognize that potential restoration site ranking is directly related to ecological changes which occur. As sites are restored, other sites in proximity would accordingly be likely to receive a higher ranking on the criteria of functional connectivity (page 3-3 of the RP).

6. See response to Tacoma-Pierce County Chamber of Commerce letter, comment 2 and CHB letter, comment 3.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

DEC 06 1996

Reply To
Attn of: ECO 088

Judy Lantor
U.S. Fish and Wildlife Service
3704 Griffin Lane SE, Suite 102
Olympia, WA 98501-2192

Re: **Commencement Bay Draft Restoration Plan and Programmatic Environmental Impact Statement (RP/EIS)**

Dear Ms. Lantor:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and §309 of the Clean Air Act, we have reviewed the draft **Commencement Bay Draft RP and Programmatic EIS.** The propose of the programmatic RP/EIS is to coordinate and implement restoration projects under the Commencement Bay Natural Resource Damage Assessment. The draft EIS evaluates five alternatives including the no-action alternative.

The goal of the preferred alternative (Alternative 5) is to maximize the opportunities for restoring, replacing, rehabilitating or acquiring natural resources and services injured as a result of the release of hazardous substances or discharges of oil, by integrating the best elements of the other alternatives (i.e., habitat function, species-specific, and acquisition of equivalent resources and services). The draft EIS indicates that the no-action alternative could result in additional adverse effect on the fish, wildfire, sediment and water as result of not restoring, rehabilitating or acquiring the equivalent of the injured natural resources. Therefore, we have rated the draft EIS LO (Lack of Objections).

As you are aware, EPA has been a cooperating agency during preparation of this document. We commend the National Oceanic & Atomospheric Administation (NOAA) and the other Trustee agencies for the excellent and cooperative planning process that has resulted in a restoration plan that can be implemented through a variety of individual or cooperative agency efforts. We belive NOAA's foresight and care paid to involving the major regulatory and remediation agencies throughout the planning and decision-making will result in actual, on the ground habitat restoration instead of another pretty, but unimplementable plan. We expect to work closely with the Trustees to this end in Commencement Bay and elsewhere in the Pacific Northwest.

U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections

The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonaby available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL # of pages ▶ 1
To Judy Lantor From Hague
Dept./Agency Phone # EPA
Fax # 360-753-9008 Fax # 206-553-4423
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

APPENDIX 2

September 10, 1996
Public Meeting Transcript

A public meeting was held on September 10, 1996 at the World Trade Center in Tacoma, Washington. Four people provided public testimony, Fred Gardner from the Washington State Department of Ecology (Ecology); Jim Goche' representing the Commencement Bay Cleanup Action Committee; Dave McIntee representing the Simpson Tacoma Kraft Company; and Leslie Ryan representing Citizens for a Healthy Bay. The official transcript from the public meeting can be found on the following pages. This summary refers to page and line numbers in the official transcript.

The Commencement Bay Cleanup Action Committee and Citizens for a Healthy Bay also provided formal written comments. The public testimony given by these two groups was very similar to their written comments which were discussed in appendix 1. Jim Goche' provided one additional comment, with regard to habitat focus areas, that the focus be on larger contiguous habitat parcels in the habitat areas (see page 13, line 15). For a response to this comment please see Beveridge letter, response 3, in appendix 1.

Fred Gardner from Ecology discussed the process for the State to adopt the programmatic EIS as a State Environmental Policy Act (SEPA) document (see pages 10, 11). Dave McIntee, representing Simpson, talked in support of the RP/EIS and requested an informal meeting format to continue discussions on the RP. This comment was made in several of the formal comment letters and is answered in the Brackett letter response 2, Goche' letter response 3, and Pierce letter response 3, in appendix 1.

DRAFT RESTORATION PLAN

AND PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT (RP/EIS)

FOR COMMENCEMENT BAY NATURAL RESOURCE DAMAGE

ASSESSMENT (CB/NRDA)

Tuesday, September 10, 1996

6:30 to 8:30 PM

World Trade Center, Port of Tacoma Road, Tacoma, Washington

REPORTED BY: LAURA A. LUSE

KAREN NORTHUP: I want to welcome you all that came out on such a beautiful night to come to our public meeting on the draft Environmental Impact Statement for restoration planning in Commencement Bay. I want to give a special thanks to Dick Gilmur from the Port of Tacoma for arranging for us to use this fine room. We have been here many times and we appreciate it, really.

My name is Karen Northup and I am the Chief of the Environmental Resources Section for the Seattle District Corps of Engineers, and I am going to facilitate this evening's meeting. Before we get underway I want to introduce the Natural Resource Trustees so you will all know who they are, and when we get to the informal discussion you will know who to go up and talk to.

The Trustees are responsible for preparing the draft Environmental Impact Statement and the restoration planning work. Representatives from the National Oceanic and Atmospheric Administration that are here with us tonight are Dr. Robert Clark -- and I would like you to stand up when I say your name -- Jennifer Young, and Gale Siani, who is out there. Representatives from the US Fish and Wildlife Service are Judy Lantor and Jeff Krausmann. The National Oceanic and Atmospheric Administration and the Fish and Wildlife Service are trustees and they are also the joint lead federal agencies for the Environmental Impact Statement. Our representative from the

Washington Department of Ecology is Fred Gardner. The Department of Ecology is the State Lead Trustee and is also a cooperating agency for the EIS. The Muckleshoot Tribe is represented by Rod Malcom. The Puyallup tribe -- is Bill Sullivan here? Both the Puyallup tribe and Muckleshoot tribe are Trustees, as well as cooperating agencies for the preparation of the Environmental Impact Statement.

Agencies that are not Trustees but still are cooperating agencies for the Environmental Impact Statement's preparation are the Corp of Engineers represented by Pat Cagney back there and the Environmental Protection Agency. The Corps of Engineers was specifically tasked by the trustees to work with them in preparing the Environmental Impact Statement, and we serve a technical role in this effort. Also with us tonight is at Ted Turk from SAIC, the contractor that put together the EIS document.

Our meeting with you here tonight represents another milestone in the process of assessing the environmental impacts of the restoration planning alternatives for Commencement Bay. The process we are following at the federal level is the process established by the National Environmental Policy Act. We refer to it as the NEPA process. The parallel process for the state is the process established by the State Environmental Policy Act.

We started the NEPA process with you formally

in October, 1994, with public scoping meetings that occurred right here in this room. The results of scoping were made available in a scoping document that was dated January 1995. We continued seeking input from you through a series of restoration planning workshops. Information we gained was used to prepare the draft EIS, and to develop and evaluate the various alternatives.

The preferred alternative identified and described in the draft Environmental Impact Statement is the integrated approach. The trustee's goal in conducting restoration planning for Commencement Bay is to determine the best approach to restoring, replacing, rehabilitating, and/or acquiring equivalent natural resources injured as a result of release of hazardous substances or discharge of oil to the Commencement Bay environment.

To guide their planning efforts, the trustees decided to prepare a programmatic Environmental Impact Statement rather than a project-specific Environmental Impact Statement. The programmatic EIS is being used to evaluate the management alternatives for restoration. The EIS is not intended to quantify the restoration extent or provide specifics of individual restoration projects, that work will come later and will make use of -- or in the language of NEPA we say tier off -- the information in the programmatic document. The scale of restoration activity that will ultimately be taken will

appended to the final Environmental Impact Statement.

As you entered the room tonight you registered on a sign-up sheet. You are also offered an opportunity to fill out this slip -- a slip like this -- if you wish to speak at this meeting. Is there anyone who wishes to speak that didn't fill one of these out?

Tonight there are two ways you can provide comments to us on the draft Environmental Impact Statement. One is through the provision of oral comments, and the other is by giving us your written comments. If you have a written statement and you don't want to make an oral presentation, please turn in your written statement to Gale at the table in the front before you leave tonight. If you have a written statement and you are going to read it during your presentation, turn it in after your presentation to the same registration desk to Gale. If you have got a written statement and you are not going to read it and you don't wish to speak orally, please, turn that in, too. All the comments we receive, either in writing or orally tonight, will be part of the official record.

Before we get started on receiving your comments, Bob Clark is going to present an overview of what the natural resource damage assessment is all about.

ROBERT CLARK: Thank you, Karen. On the part of the trustees I would also like to welcome you all to tonight's meeting, and also take this formal opportunity to

depend on funds, property, and services made available through resolution of natural resource damage claims.

Tonight's meeting is for the purpose of obtaining your comments on the draft EIS. We will use those comments in preparing the final EIS and the Record of Decision that are made as a result of the NEPA process. The draft EIS was filed in the federal register on August 8th, 1996. The closing date for receipt of your comments is October 8th, 1996. So we are exactly midway in the review process.

After tonight, if you still have comments you wish to make, please submit them in writing to Judy Lantor of the Fish and Wildlife Service, and her address is on the first page of the Environmental Impact Statement. If you need a copy of the draft EIS and you have not received one, we have a few at the front desk. If there is not enough we will take your name and address and send you one.

I didn't really plan a specific break, but if it looks like you guys need one I will stop and we will take a break. This building is a non-smoking building, so if you need to smoke you will have to go outside, and we need to be out of the building by 9:00 o'clock.

The public meeting is being reported by our court reporter whose name is Laura Luse. She is with Rough and Associates, and she is sitting over here, if you haven't guessed that. A complete written transcript of the meeting will be

have had from other non-hazardous material impacts, such as development of the Tideflats.

One of the things we did, we started with a study that the Corps of Engineers put together for us called the Cumulative Impact Study -- that came out in 1993 -- that showed us in some cases, as an example, the emergent marsh and tidal mud flats that were originally here as part of the estuary of the Puyallup River, we have lost 98 percent of that, the historic habitat that was here. Therefore, the two percent that is remaining has become very important to us and has been a basis for us to put together a Restoration Plan -- which was done by the Trustees working with a number of public and responsible party agencies here over a period of about three years. It is not tax based, it is based on recovery of injuries from responsible parties, and it is based on settlements. We have, at the present time, settlements from the Washington State Department of Natural Resources, Simpson Tacoma Kraft, Champion International, and from the Port of Tacoma for the Sitcum/Blair/Milwaukee.

This is an ongoing effort, and because we don't know the total amount of settlements we have, we have a conceptual Restoration Plan and a programmatic EIS. It sets the framework in which we will start using the settlement moneys we now have to conduct restoration. It is not a land-use plan, but what it may be is a framework, by which not only the Natural

thank many, many of you in this room who have contributed very substantial parts to the drafting of the programmatic Environmental Impact Statement and the conceptual Restoration Plan.

Because there might be someone here who has not participated in previous meetings, I was asked to give a very brief overview of what Natural Resource Damage Assessment, or NRDA, is. Under the Superfund or CERCLA, which is bureaucratic for Comprehensive Environmental, Response, Compensation, and Liability Act, a group of resource agencies, who Karen listed as trustees, are empowered to determine injuries to public trust resources, such as fish, wildlife, sediments, water, and birds, from the release of hazardous materials or in the case of the Oil Pollution Act, petroleum oil, and then to assess monetary damages against responsible parties. And as Karen also stated, these funds are then to be utilized in the name of the public to restore, replace, or acquire the equivalent to these injured natural resources.

So what is NRDA and what is it not? It is based on injury to trust resources. And it has to, through a bay-wide effort that the Trustees have undertaken starting in the early part of this decade, to look at all of Commencement Bay as a bay-wide effort. It has been an effort to determine what the injuries are from the release of hazardous materials to the resources, this is over and above what impacts the resources

9:00 -- the informal discussion is for anyone who wishes to stay and talk about this further. We will stop recording at the end of the receipt of the oral testimony.

So when I call on you to speak, I would like you to come up here. The court reporter needs to see you as she is recording as you speak, and please state your name, your affiliation, if any, and your address. And I was going to say, please, use one of the microphones, but I guess we don't need that tonight. Talk as concisely as you can so Laura can pick up everything that you are saying. Thank you.

The first speaker is Fred Gardner. Fred Gardner is from the Department of Ecology.

FRED GARDNER: My name is Frederick Gardner. I am with the Department of Ecology, and my address is Washington State Department of Ecology, PO Box 47600, Olympia, Washington; 98504-7600.

The statement I wanted to make was I kind of feel like the advertisement for the Hair Club for Men. I am not only the Trustee representative for the state, but there is this other little thing that I do, and I am going to be the responsible official for the SEPA adoption. And the way we have intended to do it -- and this is my spiel, it is not about the Ecology Trustee part of the EIS, it really had to do with the SEPA adoption process, and the state does, after consultation with our other state agencies and through the NEPA process, do

Resource Trustees using those settlement dollars they have, but it may provide some guidance to other entities, including things such as compensatory mitigation. It shows a framework for the whole area.

We have some maps on the back wall which are included -- they are just large copies, a little more colorful, perhaps than we have in the EIS -- but they show some of the area that we are talking about. We had defined two basic areas: a primary study area, which are primarily Commencement Bay and its immediate environments, and then the expanded study area, which included the rest of the watershed of the Puyallup River.

We are more than willing to go into any questions and answers in the informal session that will follow the formal session, but I think this gives a brief overview. Hence, Karen, I will turn it back to you for the formal.

KAREN NORTHUP: The mechanics of this process probably most of you are familiar with, but I will review them anyway. We are going to start with a statement by the Department of Ecology, Fred Gardner, and I will then call on each person who has indicated they want to speak in the order I received their cards saying they wanted to speak. I will follow this until everyone is heard, and then I will ask at the end is there someone else who wants to speak, and invite anyone else to come up at that time. And when the formal portion of the meeting is over -- as Bob indicated, we will be here until

the forum for issues like this.

The comments that I want to make tonight are brief and also are preliminary. We haven't had our monthly meeting in September yet; however, a group of CBCAC stalwarts got together last week to talk about the issues surrounding the EIS and the Restoration Plan. So the comments that I have are preliminary. I think that they represent the thinking of the folks that were assembled to talk about those issues. We will talk about them again at our meeting at the end of the month, and we will issue something formal in writing to the Trustees at that time.

But the essence of the issues that this meeting wanted to bring to your attention are these; first of all, we wanted to thank the Trustees for listening to us and being responsive to the comments that we made and incorporating most of those comments into the EIS and restoration plan. Two, the overwhelming feeling of the folks that got together and talked was that the document is pretty good the way it is. Please, use best efforts to finalize it without using a whole lot more resources and time with it so we can get on with specific projects.

Having said that, there are a couple of small comments that we would like to make in addition to that. First of all, Bob Clark's explanation, if you could put some sort of user friendly preamble at the beginning of the document or in

intend to adopt the programmatic Environmental Impact Statement as a SEPA document. So we will just take it in total and it will become a State document as well. Now, that doesn't mean that during some state MTCA hearings that we don't have -- if there are provisions for settlements that involve actual work -- that we won't go through that type of work during the MTCA hearing. It doesn't mean that state HPAs and other requirements will be waived in any manner on these restoration sites.

So are there any questions you have on that particular process? If somehow there is enough public input that this is not the right thing to do or there is some omissions or the public hasn't had enough to comment, then the State will reevaluate that process. Up until this point, I think we felt it has been pretty good, and so far we like what we see and we have been part of the process. We have been a consulting agency and that is our intent to adopt. Thank you.

KAREN NORTHUP: Thank you, Fred. The next speaker is Jim Goche.

JIM GOCHE: Thank you. My name is Jim Goche. I represent the Commencement Bay Cleanup Action Committee referred to as CBCAC. If anybody in the audience isn't familiar with the group, it is an association of local governments, the city, the county, the port, the park district, a number of industries around Commencement Bay, and a number of individuals in community organizations, and we act, among other things, as

drafts, and then this draft, and the quality of the work improved with each draft, the substance improved, and we were real happy with what we see -- both with the EIS and with the Restoration Plan.

I just have a brief comment with regard to the Restoration Plan itself, and that is I think, or Simpson believes, there can be some more benefit gained if we kind of ground truth the restoration planning implementation a little bit more. The document does a good job giving a conceptual and overview discussion of how restoration is implemented. But possibly, through some additional clarification with comments, we will give and also hopefully be getting together in an informal meeting and talking about past problems, and what worked exceptionally well, what didn't work well, and developing more of a hands-on user-friendly type of approach. We think that could be beneficial.

I guess what I would like to do is maybe talk to a few of the Trustees after the meeting, and see if you are getting together for some meeting, whether it is one of your quarterly meetings over the next few weeks or another meeting, we might be able to get together and chat a little bit about that. So, like I said, I think it was well done, and if progress is made on the final, similar to how it was from the beginning here, I think you are going to have a real good document. So thanks for the opportunity to comment.

the document for laymen that explains the EIS and the RP process that would be great, that would help a number of our members. And I think Bob did a very nice job explaining what the process was all about. Two, if you could put a short explanation on how the EIS process can be applied to specific projects. For example, when you have a programmatic EIS and then you go to a project-specific EIS, can you explain to people who have to do a lot of their own work how they can use work done and not duplicate it when it comes to project specific efforts? Number three, could you more specifically refer to compliance in doing projects with local ordinances and local plans? And four, on the habitat focus areas, the folks that were in the meeting felt that you did a good job outlining these and they wanted to urge you that -- not in the EIS, but in later implementation when you start expending resources -- could you focus on larger contiguous habitat parcels in the habitat areas? The final comment is that we compliment you on working with local groups, CBCAC, CHB, and others, and we encourage you to continue to do so. Thank you.

KAREN NORTHUP: Thank you, Jim. The next speaker is Dave McEntee.

DAVE MCENTEE: I am Dave McEntee, Simpson Tacoma Kraft Company, 801 Portland Avenue, Tacoma. And I, like Jim, want to congratulate the trustees on putting together a good document. There is a preliminary draft, some intermediate

the very end on implementation, but I think that section could be clarified quite a bit more in terms of kind of a checklist, a step-by-step approach of how a project actually gets started and completed.

As a suggestion to that, there is a couple of different ways that we have kind of been guessing about on how this could happen, and it is up to the Trustees to let us know what their plans are, but will the Trustees be reconvening the Restoration Panel to finish the Restoration Panel's work in terms of ranking sites, or will there be some other process that is used to start on the ground restoration in picking specific sites? Citizens for a Healthy Bay has completed their restoration priorities for Commencement Bay, and I am sorry I wasn't able to bring any today, the printer screwed up the printing. So I don't have those final maps and restoration plans for you, but we have certainly got our nine areas within the Bay that we would like to see focused restoration happen on as the main priorities for how to spend the dollars. And in a general sense related to that, Citizens for a Healthy Bay remains committed to seeing all the restoration dollars spent within the Commencement Bay area, and as little as possible spent in the expanded study area. And that is it, I will be sending more formal comments later.

KAREN NORTHUP: Thank you, Leslie. I can certainly relate to your printer problems. Always when you are

KAREN NORTHUP: Thank you, Dave. The last speaker that I have a card for is Leslie Ryan.

LESLIE RYAN: I am Leslie Ryan. I represent Citizens for a Healthy Bay. Our address is 771 Broadway, Tacoma, Washington; 98402. Like what Jim Goche said about the CBCAC, we also are going to be submitting more formal comments before the end of the comment period, but I did want to take the opportunity to thank the trustees for responding to the CBCAC's comments, in those work groups with the CBCAC, and we appreciate you listening to our comments there.

From what I have looked through so far, the document is much improved from the informal workshops that we have had before, and it looks really good and will really be a document that can be used in the future, not just for this process, but for other restoration planning projects for Commencement Bay.

The main concerns that I would like to present right now, since we haven't come up with any other formal comments, is that we are left with the question of, what happens next? The programmatic EIS fully explains what the restoration planning process looks like in terms of that programmatic approach, but what is the next step, how does a project get proposed, who does the proposal go to, what are the steps that that project needs to go through in order to meet the requirements of the EIS? And I know that there is a section at

just in a crunch, that is when things break down. Is there any one else who would wish to make some oral comments? That is the end of the formal portion of our meeting tonight. And remember if you have any written comments you want to turn in and you haven't brought them with you, please make sure you get them to Judy Lantor by the 8th of the October. On behalf of the Trustees, I want to thank all of you for coming tonight and anyone who wishes to stay and have some informal discussion with us, Bob Clark is going to kind of moderate the informal discussion period, and we will be glad to have you stay. Thank you.

APPENDIX 3

Draft RP/EIS Distribution Report and RP/FEIS Distribution List

The draft RP/EIS distribution as of December 2, 1996 is shown in the following table. The last column in the table provides specifics on distribution, those who received the draft from the initial mailing list are designed by a "D", those who were sent the draft upon request are designated by an "R", and those who received the Executive Summary only are designated with an "E". All persons and entities on the list will be sent a copy of the Restoration Plan and Final EIS.